

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

FORM 10-K

(Mark One)

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

For the fiscal year ended December 31, 2024

or

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

For the transition period from _____ to _____

Commission file number: 0-52577



(Exact Name of Registrant as Specified in Its Charter)

Delaware
(State or Other Jurisdiction of Incorporation or Organization)

20-3340900
(IRS Employer Identification No.)

8235 Forsyth Blvd., Suite 900, St Louis, Missouri
(Address of Principal Executive Offices)

63105
(Zip Code)

(314) 854-8352
(Registrant's Telephone Number, Including Area Code)

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock	FF	NYSE

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

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

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

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

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

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

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

Indicate by check mark whether the registrant has filed a report on and attestation to its management's assessment of the effectiveness of its internal control over financial reporting under Section 404(b) of the Sarbanes-Oxley Act (15 U.S.C. 7262(b)) by the registered public accounting firm that prepared or issued its audit report.

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

If securities are registered pursuant to Section 12(b) of the Act, indicate by check mark whether the financial statements of the registrant included in the filing reflect the correction of an error to previously issued financial statements.

Indicate by check mark whether any of those error corrections are restatements that required a recovery analysis of incentive-based compensation received by any of the registrant's executive officers during the relevant recovery period pursuant to §240.10D-1(b).

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter: \$134,883,824.

Indicate the number of shares outstanding of each of the registrant's classes of common stock, as of March 31, 2025: 43,803,243

Forward-Looking Information

This report and the documents incorporated by reference into this report contain forward-looking statements. Forward-looking statements deal with our current plans, intentions, beliefs, and expectations, and statements of future economic performance. Statements containing such terms as "believe," "do not believe," "plan," "expect," "intend," "estimate," "anticipate," and other phrases of similar meaning are considered to contain uncertainty and are forward-looking statements. In addition, from time to time we or our representatives have made or will make forward-looking statements orally or in writing. Furthermore, such forward-looking statements may be included in various filings that we make with the U.S. Securities and Exchange Commission (the "SEC"), or in press releases, or in oral statements made by or with the approval of one of our authorized executive officers.

These forward-looking statements are subject to certain known and unknown risks and uncertainties, as well as assumptions that could cause actual results to differ materially from those reflected in these forward-looking statements. Factors that might cause actual results to differ include, but are not limited to, those set forth under the headings "Risk Factors" beginning at page 15 and "Management's Discussion and Analysis of Financial Condition and Results of Operations" beginning at page 33 and in our other filings made with the SEC. You should not place undue reliance on any forward-looking statements contained in this report which reflect our management's opinions only as of their respective dates. Except as required by law, we undertake no obligation to revise or publicly release the results of any revisions to forward-looking statements. The risks and uncertainties described in this report and in subsequent filings with the SEC are not the only ones we face. New factors emerge from time to time, and it is not possible for us to predict which will arise. There may be additional risks not presently known to us or that we currently believe are immaterial to our business. In addition, we cannot assess the impact of each factor on our business or the extent to which any factor, or combination of factors, may cause actual results to differ materially from those contained in any forward-looking statements. If any such risks occur, our business, operating results, liquidity, and financial condition could be materially affected in an adverse manner. You should consult any additional disclosures we have made or will make in our reports to the SEC on Forms 10-K, 10-Q, and 8-K, and any amendments thereto. All subsequent written and oral forward-looking statements attributable to us or persons acting on our behalf are expressly qualified in their entirety by the cautionary statements contained in this report.

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PART I

Item 1. Business

General

FutureFuel Corp. (sometimes referred to as the "Company," "we," "us," or "our," and includes our wholly-owned subsidiaries) is a Delaware corporation, and, through its wholly-owned subsidiary, FutureFuel Chemical Company, manufactures diversified chemical products, bio-based fuel products, and bio-based specialty chemical products. Unless otherwise stated, all dollar amounts other than per share amounts are in thousands.

We are headquartered in St. Louis, Missouri, and our manufacturing operations are conducted at our facility in Batesville, Arkansas. Trading of our common stock on the New York Stock Exchange ("NYSE") commenced on March 23, 2011, under the symbol "FF".

During 2024, we distributed normal quarterly cash dividends of \$0.06 per share. We have declared normal quarterly cash dividends of \$0.06 per share on our common stock for the calendar year 2025. Additionally, we paid a special cash dividend of \$2.50 per share on our common stock on April 9, 2024, to the holders of record of all the issued and outstanding shares of common stock as of the close of business on March 26, 2024.

Our business is managed in two segments: chemicals and biofuels. The chemicals segment manufactures a diversified listing of chemical products that are sold to third party customers. The majority of the revenues from the chemicals segment are derived from the custom manufacturing of specialty chemicals for specific customers. We have actively worked to develop our chemicals business with new customers in more diversified growth markets. As part of that focus on growth, we have introduced procedural updates to our operation to allow our re-entry to the pharma intermediates market. This capability has been confirmed by third party audits. Our chemicals business is based on a solid reputation as a technology-driven, highly reliable, and globally competitive chemicals producer. We retain a strong emphasis on operational excellence, cost control, and efficiency improvements to enable us to compete in the worldwide chemical industry.

With respect to our biofuels segment, our plant's demonstrated capacity is approximately 59 million gallons ("MMgy"). We produced 45 and 59 million gallons during 2024 and 2023, respectively. This scale and the design of our plant in Batesville allows us to process a wide variety of feedstocks and continuously achieve high biodiesel yields. Combined with the synergies of running a shared chemical manufacturing facility, this has allowed us to be consistently successful in a highly competitive market.

Narrative Description of Our Business

Principal Executive Offices

Our principal executive offices are located at 8235 Forsyth Blvd., 9th Floor, Clayton, Missouri 63105. Our telephone number is (314) 854-8352. FutureFuel Chemical Company's principal executive offices are located at 2800 Gap Road, Highway 394 South, Batesville, Arkansas 72501-9680. FutureFuel Chemical Company's telephone number is (870) 698-3000.

Plant Location

We own approximately 2,200 acres of land six miles southeast of Batesville in north central Arkansas. Approximately 500 acres of the site are occupied with our manufacturing facilities, laboratories, and associated infrastructure, including on-site liquid hazardous and non-hazardous waste treatment. Land and infrastructure are available to support expansion and business growth.

Operations

For the year ended December 31, 2024, approximately 67% of our revenue was derived from biofuels, 29% from manufacturing specialty chemicals for specific customers ("custom manufacturing"), and 4% of revenues from multi-customer specialty chemicals ("performance chemicals").

Our biofuels business segment primarily involves the production and sale of biodiesel and petrodiesel blends. Our custom chemicals manufacturing involves producing unique products for strategic customers, generally under long-term contracts. The custom chemicals manufacturing portfolio includes biocides intermediates, specialty polymers, dyes, stabilizers, oil and gas, and chemicals intermediates. Our performance chemicals product portfolio includes polymer modifiers that enhance stain resistance and dye-ability of nylon and polyester fibers, in addition to several small-volume specialty chemicals and solvents for diverse applications.

We are committed to growing and adapting our biofuels and chemicals businesses. For the biofuels business segment, we will continue to leverage our technical capabilities and quality certifications, secure local and regional markets, and expand marketing efforts to fleets and regional/national customers. For our chemicals segment, we intend to pursue development and commercialization of new products, including building block chemicals and intermediate chemicals requiring Good Manufacturing Practices ("GMP"). GMP is a recognized and auditable system ensuring products are produced consistently and controlled according to strict quality standards. It covers all aspects of manufacturing, facilities, equipment, and training utilizing detailed written procedures affecting the quality and consistency of the finished product. GMP complements the Company's current and active quality registrations, including ISO 9001 and BQ9000, and will benefit our custom chemicals business. GMP will open growth opportunities for the Company to serve customers active in the pharmaceutical intermediates, food ingredients, and other fine chemicals segment. While pursuing this strategy, we will continue our efforts to establish a name identity for both segments.

Biofuels Business Segment

Biofuel Products

Our biofuels business segment began in 2005 and primarily includes the production and sale of biodiesel. In addition, we sell petrodiesel in blends with our biodiesel and, from time to time, with no biodiesel added.

Biodiesel is a renewable energy product consisting of mono-alkyl esters of fatty acids. These esters are typically produced from vegetable oil, fat, or grease feedstocks. Biodiesel is used primarily as a blend with petrodiesel (usually 5%, commonly referenced as "B5," to 20%, commonly referenced as "B20," by volume). A major advantage of biodiesel is that it can be used in most existing diesel engines and fuel injection equipment in blends up to B20 with no material impact to engine performance. Biodiesel also benefits from favorable properties compared to petrodiesel (e.g., negligible sulfur content, lower particulate matter, lower greenhouse gas emissions, and a higher cetane number leading to better engine performance and lubrication). See <https://afdc.energy.gov/files/pdfs/30882.pdf>.

Our technical and operational competency developed as a supplier of specialty chemicals, inclusive of research and development and analytical laboratory testing, enabled the expansion of a flexible manufacturing process. Our process can use a broad range of feedstock oils, including, but not limited to, soy oil, cottonseed oil, pork lard, poultry fat, inedible corn oil, yellow grease, inedible tallow, choice white grease, used cooking oil, and beef tallow. Our Batesville plant produces biodiesel, which is sometimes referenced as "B100." We offer B100 and biodiesel blended with petrodiesel (B2, B5, B10, B20, B50, and B99 blends) at our Batesville facility and at a short-term leased storage facility in Little Rock, Arkansas. In addition, we deliver blended product to customers within our region.

Biodiesel Production/Capacity

While biodiesel can be made from various renewable sources, the choice of feedstock to be used at any particular facility is determined primarily by the price and availability of each feedstock variety; the yield of biodiesel achieved from that feedstock; and the capabilities of the producer's biodiesel production facility. In addition, the chemical properties of the biodiesel (e.g., cloud point, pour point, and cetane number) depend on the type of feedstock.

In the United States, the majority of biodiesel historically has been made from domestically produced crude soybean oil due to its widespread availability and ease of processing. However, it is also one of the more costly feedstocks on the market. As a result, the biodiesel feedstock market in the United States transitioned from this expensive first-generation soy feedstock to incorporate alternative second-generation lower-cost, non-food feedstocks, such as waste vegetable oil, tallow, and inedible corn oil. Our ability to efficiently manage the co-products and waste products associated with these more challenging feedstocks and still achieve excellent yields and processing rates has allowed us to remain competitive. Demand for second-generation feedstocks has increased substantially as they are also used to produce renewable diesel which has lower marginal costs than conventional biodiesel production and can also be used as a direct substitute for petrodiesel. Our continuous production line can produce biodiesel from this wide range of feedstocks, allowing for maximum flexibility in feedstock selection. Our plant has a demonstrated production capacity of 59 MMgy.

Legislative Incentives

Biodiesel production and use in the United States continues to be heavily influenced in large part by legislative initiatives at both the federal and state levels.

Federal Renewable Fuels Mandate

The largest incentive program at this time is the federal mandate enacted by Congress as part of the Energy Policy Act of 2005 (the "2005 Act"). The 2005 Act included several provisions intended to spur the production and use of biodiesel. In particular, the 2005 Act's provisions included biodiesel as part of the minimum volume (i.e., a mandate) of renewable fuels (the "renewable fuels standard" or "RFS") to be included in the nationwide gasoline and diesel pool. The volume, which is intended to increase each year, began at four billion gallons per year in 2006. The 2005 Act required the Environmental Protection Agency (the "USEPA") to publish "renewable fuel obligations" applicable to refiners, blenders, and importers in the contiguous 48 states. The renewable fuel obligations are expressed in terms of a volume percentage of gasoline sold or introduced into commerce and consist of a single applicable percentage that applies to all categories of refiners, blenders, and importers. The renewable fuel obligations are based on estimates that the Energy Information Association provides to the USEPA on the volumes of transportation fuels it expects will be sold or introduced into commerce. The USEPA released the final rules to implement the RFS on April 10, 2007. Under those rules, the RFS compliance period began on September 1, 2007. No differentiation was made among the various types of renewable fuels (e.g., biodiesel or ethanol).

On December 19, 2007, the Energy Independence and Security Act of 2007 (the "2007 Act") was enacted which, among other things, expanded the RFS ("RFS2"). Prior to the enactment of the 2007 Act, the RFS requirement was mostly filled by ethanol. In contrast to the 2005 Act, the 2007 Act provided a renewable fuel standard carve-out specifically applicable to biodiesel. On July 1, 2010, RFS2's biodiesel requirement became effective, thus requiring that a certain percentage of the diesel fuel consumed in the United States be made from renewable sources. The biomass-based diesel mandate rose annually and reached 2.43 billion gallons per year in 2021. On June 21, 2023, USEPA finalized a package of actions setting biofuel volumes for the Renewable Fuel Standard (RFS) program for the years 2023, 2024, and 2025.

The following table shows the finalized volume requirements by the USEPA with a steady growth rate in biomass-based diesel.

	Renewable Fuel Volumes (billion Renewable Identification Number ("RINs"))*		
	2024	2025	2026**
Cellulosic biofuel	1.09	1.38	-
Biomass-based diesel	3.04	3.35	-
Advanced biofuel	6.54	7.33	-
Renewable fuel	21.54	22.33	-

* Units for all volumes are ethanol-equivalent, except for biomass-based diesel volumes, which are expressed as physical gallons.

See <https://www.epa.gov/renewable-fuel-standard-program/final-renewable-fuels-standards-rule-2023-2024-and-2025>.

** EPA has not yet set the volume requirements for 2026 which were due by statute on or prior to October 31, 2024.

Federal Blenders' and Producers' Credits

Biodiesel tax incentives have been provided through various federal statutes, including the 2005 Act and the American Jobs Creation Act, and later, the Emergency Economic Stabilization Act of 2008. The most important of these is the one dollar per gallon Blenders' Tax Credit ("BTC") applicable to all biodiesel. The Inflation Reduction Act of 2022 extended this credit through December 31, 2024. In August 2022, a new Clean Fuel Production Credit ("CFPC") was made effective January 1, 2025. The CFPC consolidated and replaced several fuel related credits that were scheduled to expire at the end of 2024, including credits for the production of biodiesel, agri-biodiesel, renewable diesel, second-generation biofuel, sustainable aviation fuel, alternative fuels, and alternative fuels mixtures. In contrast to these expiring provisions, which subsidize specific types of low-greenhouse gas ("GHG") emission fuels, the CFPC is technology neutral and is intended to subsidize the production of any transportation fuel with zero or low GHG emissions. The CFPC is structured on a sliding scale so that producers become eligible for larger credits as the GHG emissions of the fuels they produce approach zero. For producers meeting prevailing wage and registered apprenticeship requirements, the maximum credit is \$1.00 per gallon of nonaviation fuel and \$1.75 per gallon of aviation fuel. For producers not meeting prevailing wage and registered apprenticeship requirements, the maximum credit is 20 cents per gallon of nonaviation fuel and 35 cents per gallon of aviation fuel. FutureFuel was approved for the CFPC in December 2024. There has yet to be definitive guidance on how the CFPC will be interpreted and how it may impact the other market variables that ultimately determine operating margin.

On January 10, 2025, the IRS issued Notice 2025-10 with the purpose of providing initial guidance and solicited comment from the public with a deadline of April 10, 2025, and was to serve as an announcement of forthcoming proposed regulations. It did not include any reliance language and did not constitute final or binding guidance. On January 15, 2025, the IRS issued Notice 2025-11 which provided emission rate guidance in support of Notice 2025-10. We commented on both Notices seeking immediate clarity.

Like the BTC, the small agri-biodiesel credit which provides for an annual tax incentive in the amount of \$0.10 per gallon on the first 15 million gallons of qualified agri-biodiesel produced was also extended to December 31, 2024, by the Inflation Reduction Act of 2022 and was not reinstated with the CFPC.

State Incentives

Our review of state statutes reveals that virtually all states provide user or producer incentives for biodiesel, several states provide both types of incentives, and more than 35 states provide incentives to biodiesel producers to build facilities in their states, typically offering tax credits, grants, and other financial incentives. Arkansas does not offer any producer incentives, but does offer investment incentives. We are registered in fuel programs in the states of California and Oregon, which incentivize the use of low carbon fuels specific to biomass-based diesel. We will continue to assess these and other state incentives and determine if we qualify. We will also stay abreast of regulations and update registrations if eligible.

Summary

We will continue to identify and pursue other legislative incentives to support our business. However, no assurances can be given that we will qualify for any such incentives or, if we do qualify, what the amount of such incentives will be or whether such incentives will continue to be available.

Quality

For quality specification purposes, and to qualify for the federal mandate, biodiesel must meet the requirements of American Society for Testing and Materials ("ASTM") D6751. This specification ensures that blends up to B20 are compatible with diesel engines and associated fuel system hardware. See *Status and Issues for Biodiesel in the United States*, National Renewable Energy Laboratory, Theresa Alleman, Margo Melendez, and Wendy Dafoe et. al., Feb. 2015. All biodiesel manufactured at our Batesville plant is tested in on-site quality control laboratories and confirmed to meet, and typically exceed, the ASTM D6751 standard.

Commercially available biodiesels can contain small amounts of unreacted or partially reacted oils and fats as well as other minor impurities. The unreacted or partially reacted oils and fats are called glycerides. In rare instances, the glycerides and other minor components and impurities can clog engine filters. To address this issue, ASTM D6751 was amended in February 2012 to create two new grades of biodiesel. Grade No. 2 is essentially the specifications in effect before the amendment. Grade No. 1 provides for a maximum total monoglyceride content and a maximum cold soak filterability time and, in theory, would be used where the cloud point of Grade No. 2 biodiesel does not provide adequate assurance of quality. Both grades of biodiesel qualify as "biodiesel" for purposes of the RFS2 mandate. The Company continues to operate under the most recently published version of ASTM D6751, Standard Specifications for Biodiesel Fuel Blend Stock (B100) for Middle Distillate Fuels. All biodiesel made in our continuous process meets the more stringent specifications for Grade No. 1 biodiesel.

The U.S. biodiesel industry created the BQ-9000 program to address quality issues that arose during the early years of the industry. This program is run by the National Biodiesel Accreditation Committee, which is a cooperative and voluntary program for the accreditation of biodiesel producers and marketers. The program is a quality system-oriented program that includes standards for storage, sampling, testing, blending, shipping, distribution, and fuel management practices. Since the creation and adoption of the BQ-9000 program, the quality of biodiesel in the U.S. market has markedly improved. Our plant has operated as a BQ-9000 accredited production facility since 2006.

The ISO 9000 family of standards represents an international consensus on good quality management practices. It consists of standards and guidelines relating to quality management systems and related supporting standards. ISO 9001 provides a set of standardized requirements for a quality management system, regardless of what the user organization does, its size, or whether it is in the private or public sector. It is the only international standard against which organizations can be certified, although certification is not a compulsory requirement of the standard. Our plant is an ISO 9001 accredited production facility for both chemicals and biofuels.

Renewable Identification Numbers

As noted above, the RFS2 mandates levels of various types of renewable fuels that are to be blended with U.S. gasoline and diesel fuel by U.S. refiners, blenders, and importers. RINs are the mechanism for ensuring that the prescribed levels of blending are reached. As ethanol and biodiesel is produced or imported, the producer or importer has the responsibility to report the activity in the USEPA's Moderated Transaction System ("EMTS") where a series of numbers (i.e., a RIN) is assigned to their product. Assignment is made according to guidelines established by the USEPA. Currently, 1.5 RINs are assigned for each gallon of biodiesel produced. When biofuels change ownership to the refiners, importers, and blenders of the fuel, the RINs are also transferred. The RINs ultimately are separated from the renewable fuel generally at the time the renewable fuel is blended. The refiners, importers, and blenders generally use the RINs to establish that they have blended their applicable percentage of renewable fuels during the applicable reporting period. However, once the RINs are separated from the underlying biofuels (e.g., by blending the underlying biodiesel with petrodiesel), they can also be sold separate and apart from the underlying biofuels.

We generate RINs with our biodiesel. At times, we sell biodiesel with the RIN attached to the fuel. If we blend the biodiesel with petrodiesel in blends of B80 or less (e.g., B5 or B20), we can either sell the RINs with our blended biodiesel or we can sell them as a separate, free-standing instrument removed from the biodiesel. The decision of whether or not to separate the RINs from the blended biodiesel depends on the desires of the customer and market conditions for separated RINs, particularly, market prices. While biodiesel RINs continue to be traded through market makers, no assurances can be given that a separate market for RINs will be sustained or what value will be realized upon the sale of biodiesel RINs.

Byproducts

Glycerin

A byproduct of the biodiesel process is crude glycerin, which is produced at the rate of approximately 10% by mass of the quantity of biodiesel produced. Our business produces both crude glycerin and refined glycerin for commercial sales. Crude glycerin is sold into commercially viable uses for the crude product such as construction materials, agricultural and animal feed, and other applications not requiring high purity. The price of crude glycerin is impacted by supply and demand balance, energy prices, and prices for other commodities such as corn and soy.

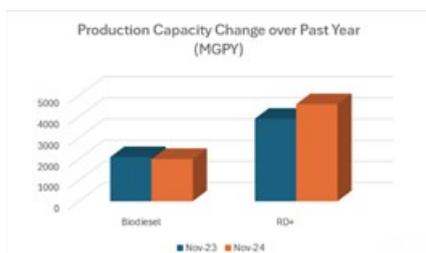
We also refine a large portion of our crude glycerin into a purer form which is used in higher value markets such as specialty chemical production, agricultural formulations, food, pharmaceutical, and/or cosmetic applications. Our business strives to maximize availability of the higher value refined glycerin based on refining capacity, product specifications, prices, and other market conditions.

Biodiesel Residue

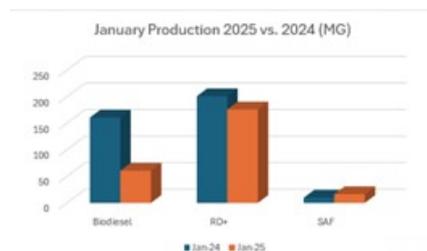
An additional byproduct of the biodiesel production process is biodiesel distillation residue. This is a relatively low-priced commodity that we aggregate and sell to multiple customers, primarily for use in Bunker C #6 Oil and as an asphalt release agent.

Biodiesel Production Capacity

According to the U.S. Energy Information Administration ("EIA"), biodiesel production capacity decreased to 1,995 million gallons per year from 2,083 million gallons and renewable diesel and other biofuels increased to 4,580 million gallons from 3,897 million gallons in November 2024 as compared to November 2023, respectively. With the capacity growth of renewable diesel and other biofuels, the biodiesel industry has continued to show resilience. (Source: <https://www.eia.gov/biofuels/update/>)



Both biodiesel and renewable diesel have been impacted by the lack of clarity from the U.S. Treasury Department with respect to the CPFC on the delay of the Renewable Fuel Obligation ("RVO") for 2026. The USEPA reports that actual production in January 2025 was significantly lower as compared to January 2024 for both biodiesel (68.7 million gallons versus 160.6 million gallons, respectively) and renewable diesel (175.9 million gallons versus 200.9 million gallons, respectively). However, sustainable aviation fuel ("SAF") production increased during the same time frame (16.4 million gallons versus 9.7 million gallons, respectively). (Source: <https://www.epa.gov/fuels-registration-reporting-and-compliance-help/spreadsheets-rin-generation-and-renewable-fuel-0>)



Even given these challenges, we believe that biodiesel will continue to be a highly competitive, sustainable, renewable fuel as long as the approved RFS pathways continue to be eligible for tax credits.

Customers and Markets

Biodiesel and biodiesel blends are currently used in nearly all of the end markets where petrodiesel is used. Most biodiesel in the United States is consumed in the on-road diesel fuel market, although some is used for off-road purposes such as farming, residential/commercial heating oil, and power generation.

We currently market our biodiesel products by truck and rail directly to customers in the United States. We also have the capability to load through barge from a terminal in Little Rock, Arkansas. Through the utilization of liquid bulk storage facilities and barge loading capabilities, we are positioned to market biodiesel throughout the United States predominately for transportation.

For the years ended December 31, 2024, 2023, and 2022, two customers represented approximately 37% of biofuel revenue (25% of total revenue), 44% of biofuel revenue (35% of total revenue), and 34% of biofuel revenue (27% of total revenue), respectively. Significant customers for the years ended December 31, 2024, 2023, and 2022 varied from year to year, and were comprised of five customers. We do not have long-term contracts with any biofuels customer, but rather sell on the basis of monthly or short-term, multi-month purchase orders at prices based upon then-prevailing market rates. We do not believe that the loss of any of these customers would have a material adverse effect on our biofuels segment or on us as a whole in that: (i) biofuels are a commodity with a large potential customer base; (ii) we believe that we could readily sell biofuels to other customers; (iii) the prices we receive from these customers are based upon then-market rates; and (iv) our sales to the customers are not under fixed terms, and the customers have no obligation to purchase any minimum quantities except as stipulated by short term purchase orders.

Competition

Renewable diesel continues to be a rapidly growing biofuel competing with biodiesel. The Company uses a conventional process of transesterification of feedstocks fats, vegetable oils, or waste cooking oils to make biodiesel. Renewable diesel is produced via hydro-processing of the same feedstocks. Renewable diesel, unlike conventional biodiesel, meets the fuel specification requirements of ASTM D975 (petrodiesel fuel) and ASTM D396 (home heating oil) and can be used as a direct substitute without requiring the need for petrodiesel blending. As a result, renewable diesel trades at a premium price to conventional biodiesel based on fungibility with petrodiesel, better cold weather performance and generation of a higher number of RINS on a per gallon basis.

Renewable diesel operational capacity in the US has grown significantly since 2018 and at the end of 2024 was at approximately 4,580 million gallons per year with that figure expected to continue to rise over the next five years. In 2023, renewable diesel capacity and production surpassed that of conventional biodiesel. The increases forecasted for renewable diesel capacity will require an increase in the supply chain to meet that demand. This was also the case in 2018, and new capacity was constructed to meet demand. As well as being driven by the benefits of the RFS and those of the Californian Low Carbon Fuel Standard ("LCFS"), renewable diesel production is also attractive to U.S. oil companies as it allows them to repurpose refinery hydro-processing equipment close to existing hydrogen supply facilities that would otherwise be redundant or uneconomical. In addition to renewable diesel, SAF in the US has grown to a capacity of 16.4 million gallons. The future of biodiesel will be driven by feedstock availability; its market price compared to renewable diesel; and State and Federal regulations and incentives.

We also compete with other producers of biodiesel regionally, nationally, and with foreign imports. The principal methods of competition in the biodiesel industry are price, supply reliability, biodiesel quality, and RIN integrity, i.e., the degree of confidence the market maintains in the validity of a biodiesel producer's RINs. The number of operational biodiesel plants has dropped significantly in the past three years, but these have tended to be smaller, simpler plants with limited access to feedstock. Additionally, we compete with numerous other smaller producers and emerging renewable diesel and cellulosic based biodiesel technologies.

We cannot give any assurances that renewable diesel fuel, green diesel, natural gas or some other product produced by these or similar competing technologies will not supplant biodiesel as an alternative to conventional petrodiesel. The manufacturing processes for biodiesel and renewable diesel are inherently different and it would not be economically feasible to retrofit the Company's operation to produce renewable diesel.

The biodiesel industry also is in competition with the petroleum-based diesel fuel industry. The biodiesel industry is small relative to the size of the petroleum-based diesel fuel industry, and large petroleum companies have greater resources than we do. Without government incentives and requirements, it is uncertain how the market would react and what the consequent impact on processing economics would be.

Supply and Distribution

As a result of our feedstock-flexible process, we can source feedstock from a broad supplier base, which includes degummed soy oil, distilled corn oil producers, reclaimed used cooking oil, and pork, chicken, and beef rendering facilities from both national and regional suppliers. Crude corn oil has been sourced from several national and regional producers. All feedstocks are currently supplied by either rail or truck. As discussed in the previous section, sourcing supplies of economically attractive feedstocks is becoming increasingly competitive.

We sell biodiesel from our plant site as well as ship it to liquid bulk storage facilities for further distribution. Sales from our plant site are made by railcar and tank truck. Biodiesel is being delivered by Company-owned tank trucks and common carriers to a liquid bulk storage facility leased by us for distribution there and for further transportation by barge or tank truck.

Cyclicality and Seasonality

Biodiesel producers have historically experienced seasonal fluctuations in demand for biodiesel. Biodiesel demand has tended to be lower during the winter in northern and Midwestern states due to historical concerns about biodiesel's ability to operate optimally in cold weather as compared to petrodiesel. This seasonal fluctuation has been strongest for biodiesel made from animal fats and used cooking oils. Biodiesel made from such feedstocks has a higher cloud point (which is the point at which a fuel begins to gel) than biodiesel produced from vegetable oils, such as soybean, canola, or crude corn oil.

The mandate for biodiesel usage as established by RFS2 may interject an additional seasonal fluctuation in our biodiesel business. Once the mandate for a calendar year is met, or is anticipated to be met, demand for biodiesel may decrease.

Outlook for the Biodiesel Industry/Our Future Strategy

The passage of the Inflation Reduction Act in August of 2022 extended the BTC through December 31, 2024 and introduced the CFPC effective January 1, 2025. There has yet to be definitive guidance on how the CFPC will be interpreted and how it may impact the other market variables that ultimately determine operating margin. Large scale investment in large scale renewable diesel plants competing for the same feedstock pool has put significant pressure on small scale conventional biodiesel producers. We believe that producers who are proactive in responding to these changes can remain competitive and benefit in this emerging market. These responses include: new and improved technologies; alternative feedstocks with higher yields; production scalability and flexibility options; supply chain, distribution and co-location strategies; the sale of RINs separate from the underlying biodiesel; and innovative risk management strategies.

Our future strategy for our biofuels segment is geared towards these responses. Notwithstanding our future strategy, our continued production of biodiesel may be limited, in part, by our ability to source feedstock given competitive growing renewable diesel markets, or, in a worst-case scenario, eliminated entirely, in the event Congress eliminates the federal mandate of the RFS2. See "Risk Factors" beginning at page 15 below.

Chemicals Business Segment

Overview of the Segment

Our chemicals segment manufactures diversified chemical products that are sold to third party customers. This segment comprises two components: "custom manufacturing" (manufacturing specialty chemicals for specific customers) and "performance chemicals" (multi-customer specialty chemicals).

Chemical Products

Custom manufacturing involves producing unique products for strategic customers, generally under multi-year or long-term contracts. Most of these products are produced under confidentiality agreements in order to protect each company's intellectual property. This is a service-based business where customers value dependability, regulatory compliance, technical capabilities, responsiveness, quality assurance and control, process improvement, operational safety, and environmental protection. Our custom manufacturing products are manufactured by continuous production, dedicated batch or general-purpose batch mode depending on the specific product and the volumes required. Management believes that we are a full-service strategic partner to our key and potential customers in this segment. Our commercial, engineering and technology teams work collaboratively with our customers to further drive continuous process improvements and with potential customers to deliver new business.

Our plant's custom manufacturing product portfolio includes products that are used in the coatings, chemical intermediates, industrial and consumer cleaning, oil and gas, dyes, and specialty polymers industries. Historically, but ending in 2021, our custom manufacturing product portfolio was highly concentrated on two significant legacy products, namely a laundry detergent additive for a leading consumer products company and a proprietary row crop herbicide. Our current custom manufacturing product portfolio is more diversified into multiple markets including agrochemicals, oilfield chemicals, industrial intermediates, and fabric care markets.

Performance chemicals comprise products which are generally available to the open market and sold to multiple customers. These products are sold based upon specification and are intended for specific performance in specialty end-use applications determined by the customer. This portfolio includes a family of polymer (nylon and polyester) modifiers, glycerin products, consumer cleaning products, surfactants, and several small-volume specialty chemicals and solvents for diverse applications.

Future Strategy

We believe we have built a solid reputation as a safe, reliable, cost competitive, and technology-driven chemical producer. To further build on this reputation, we must continuously increase our focus on maintaining and adding customer relationship development, cost control, operational efficiency, capacity utilization, operational safety, and environmental protection to maximize earnings. We also believe that the ability to use large-scale batch and continuous production processes and a constant focus on process improvements allows us to compete effectively in the global custom manufacturing market and to remain cost competitive with, and for some products cost-advantaged over, our competitors. Furthermore, our site's fully integrated infrastructure facilities, including utilities and waste treatment, provide us with an advantage over many of our competitors, and allow us to provide a complete package of custom manufacturing services. With GMP capabilities and ISO/BQ certifications, we strengthen our capabilities to grow our business further. We intend to improve margins in this area of our business by expansion of the customer base in additional market segments, careful management of product mix with regard to size of opportunity, timing to market, capital efficiency and matching of opportunities to assets and capabilities. We possess a core competency in chemical processing of bio-based feedstocks and expertise in specialty chemical synthesis and process development. We believe that this positions us favorably as a preferred manufacturer of custom chemicals and sustainable products in growing markets.

Customers and Markets

Our chemical products are used in a variety of markets and end uses, including detergent, agrochemical, automotive, oil and gas, coatings, nutrition, and polymer additives. Some of the chemical products can be cyclically driven by changes in general demand factors. In the case of our custom manufacturing business, the customers are typically the brand owners and, therefore, they control factors related to production demand, such as market development, patent expirations and their external manufacturing strategy. In such cases, we may be unable to increase or maintain our level of sales revenue for these products.

No chemical customer represented greater than 10% of total sales revenue in 2024 or 2023.

Competition

Historically, there have been significant barriers to entry for competitors with respect to specialty chemicals, primarily due to the fact that the relevant technology and manufacturing capability has been held by a small number of companies. As technology and investment have increasingly moved outside of North America, competition from international multi-national chemical manufacturers has intensified, primarily from manufacturers in India and China. We compete with these and other producers primarily based on price, customer service, technology, quality, and reliability. Our major competitors in this segment include large multi-national companies with internal specialty chemical manufacturing divisions and smaller independent producers. The international multi-national competitors are often disadvantaged by poor responsiveness and customer service, while the small producers often have limited technology and financial resources. We believe that we are well positioned for growth due to the combination of our scale of operations, technical capabilities, on-site utilities and wastewater treatment, reputation, and financial strength.

Supply and Distribution

Specialty chemicals are generally high unit value products sold in bulk, or low-volume packaged form, and for which distribution is a relatively minor component of cost. Most products are sold free on board ("FOB") from the Batesville site for distribution globally. Similarly, raw materials for these products are comparatively higher-value components that are sourced globally. An exception is the biofuels co-products, which are recovered from local processing.

Cyclicality and Seasonality

Some of the chemical products can be cyclical, driven by changes in energy prices and agricultural commodity prices. For example, demand for chemical products sold into energy exploration and transportation markets is influenced by oil prices. The use of chemical products in agricultural markets likewise is influenced by agricultural commodity prices. Supply and demand dynamics determine profitability at different stages of cycles and global economic conditions affect the length of each cycle. Despite sensitivity to cyclicity in these industries, many of the products in the chemical segment provide stable earnings.

Backlog

The majority of our chemical revenue is derived from custom manufacturing agreements with specific customers. These customers generally provide us with forecasts of demand on a monthly or quarterly basis. These forecasts are intended to enable us to optimize the efficiency of our production processes and generally are not firm sales orders. As such, we do not monitor or report backlog.

Intellectual Property

We consider our intellectual property portfolio to be a valuable corporate asset, which we intend to expand and protect globally through a combination of trade secrets, confidentiality and non-disclosure agreements, patents, trademarks, and copyrights. As a producer of a broad and diverse portfolio of chemicals, our intellectual property relates to a wide variety of products and processes acquired through the development and manufacture of over 300 specialty chemicals. Our primary strategy regarding our intellectual property portfolio is to appropriately protect all innovations and know-how in order to provide our business segments with a technology-based competitive advantage wherever possible. In the chemicals business segment, custom manufacturing projects are primarily conducted within the framework of confidentiality agreements with each customer to ensure that intellectual property rights are defined and protected. In the chemicals business segment, performance chemicals are protected utilizing patents, both United States patents and international patents, or maintained as Trade Secrets. In the biofuels business segment, innovations and process know-how are vigorously protected as appropriate.

As may be necessary, we will seek to license technologies from third parties that complement our strategic business objectives. Neither our business as a whole, nor any particular segment, is materially dependent upon any one particular patent, copyright, or trade secret. As the laws of many foreign countries do not protect intellectual property to the same extent as the laws of the United States, we can make no assurance that we will be able to adequately protect all of our intellectual property assets.

Research and Development

We devote considerable resources to our research and development programs, which are primarily targeted towards three objectives:

- innovating, developing, and improving biofuels processes, in particular biodiesel and other biofuels, including value-up technology and applications for co-products;
- developing and improving processes for custom manufacturing products; and
- innovating, developing, and improving performance chemical products and manufacturing processes.

Our research and development capabilities comprise analytical chemistry competencies to assay and characterize raw materials and products, organic chemistry expertise applied across a breadth of reaction chemistries and materials, design and process engineering capabilities for batch and continuous processing of both solid and liquid materials, and proficiency in process safety and scale-up necessary to design safe chemical manufacturing processes. We believe that these core competencies, established in support of the legacy chemical business, are applicable to building a technology-based position in biofuels and associated bio-based specialty products and expanding our chemical segment product lines.

Research and development expense incurred by us for the years ended December 31, 2024, 2023 and 2022 were \$3,993,000, \$4,398,000, and \$3,415,000, respectively. Substantially all of such research and development expense are related to the development of new products, services, and processes or the improvement of existing products, services, and processes.

Environmental Matters

Various aspects of our operations are subject to regulation by state and federal agencies. Biofuel and chemical operations are subject to numerous, stringent and complex laws and regulations at the federal, state, and local levels governing the discharge of materials into the environment or otherwise relating to environmental protection. These laws and regulations may:

- require acquisition of permits regarding discharges into the air and discharge of waste waters;
- place restrictions on the handling and disposal of hazardous and other wastes; and
- require capital expenditures to implement pollution control equipment.

Compliance with such laws and regulations can be costly, and noncompliance can result in substantial civil and even criminal penalties. Some environmental laws impose strict liability for environmental contamination, rendering a person liable for environmental damages and cleanup costs without regard to negligence or fault. Moreover, there is strong public interest in the protection of the environment. Our operations could be adversely affected to the extent laws are enacted or other governmental action is taken that imposes environmental protection requirements that result in increased costs to the biofuels and/or chemical manufacturing industry in general. The following provides a general discussion of some of the significant environmental laws and regulations that impact our activities.

The federal Comprehensive Environmental Response, Compensation and Liability Act (or "CERCLA"), and analogous state laws, impose joint and several liability, without regard to fault or the legality of the original act, on certain classes of persons that contributed to the release of a hazardous substance into the environment. These persons include the owner and operator of the site where the release occurred, past owners and operators of the site, and companies that disposed of or arranged for the disposal of hazardous substances found at the site. Responsible parties under CERCLA may be liable for the costs of cleaning up hazardous substances that have been released into the environment and for damages to natural resources. Additionally, it is not uncommon for third parties to assert claims for personal injury and property damage allegedly caused by the release of hazardous substances or other pollutants into the environment.

The federal Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act ("RCRA"), is the principal federal statute governing the management of wastes, including the treatment, storage and disposal of hazardous wastes. RCRA imposes stringent operating requirements, and liability for failure to meet such requirements, on a person who is either a generator or transporter of hazardous waste or an owner or operator of a hazardous waste treatment, storage, or disposal facility. Many of the wastes generated in our manufacturing facility are governed by RCRA.

The federal Oil Pollution Act of 1990 ("OPA") and regulations thereunder impose liability on responsible parties for damages resulting from oil spills into or upon navigable waters, adjoining shorelines, or in the exclusive economic zone of the United States. A responsible party may include, but is not limited to, the owner or operator of an onshore facility. Spill cleanup liability may not apply to the facility if a spill is caused by another party's gross negligence or willful misconduct. Responsible parties may be subject to penalties if the spill resulted from violation of a federal safety, construction, or operating regulation, or if a party fails to report a spill or to cooperate fully in a clean-up. Failure to comply with OPA's requirements may subject a responsible party to civil, criminal, or administrative enforcement actions via the Water Pollution Control Act.

The federal Water Pollution Control Act (the "Clean Water Act") imposes restrictions and controls on the discharge of pollutants into navigable waters. These controls have become more stringent over the years, and it is possible that additional restrictions may be imposed in the future. Permits must be obtained to discharge pollutants into state and federal waters. The Clean Water Act provides for civil, criminal, and administrative penalties for discharges of oil and other pollutants and imposes liability on parties responsible for those discharges for the costs of cleaning up any environmental damage caused by the release and for natural resource damages resulting from the release. Comparable state statutes impose liability and authorize penalties in the case of an unauthorized discharge of petroleum or its derivatives, or other pollutants, into state waters.

The federal Clean Air Act and associated state laws and regulations restrict the emission of air pollutants from many sources, including facilities involved in manufacturing chemicals and biofuels. New facilities are generally required to obtain permits before operations can commence, and new or existing facilities may be required to incur certain capital expenditures to install air pollution control equipment in connection with obtaining and maintaining operating permits and approvals. Federal and state regulatory agencies can impose administrative, civil, and criminal penalties for non-compliance with permits or other requirements of the Clean Air Act and associated state laws and regulations.

The federal Endangered Species Act, the federal Marine Mammal Protection Act, and similar federal and state wildlife protection laws prohibit or restrict activities that could adversely impact protected plant and animal species or habitats. Manufacturing activities could be prohibited or delayed in areas where such protected species or habitats may be located, or expensive mitigation may be required to accommodate such activities.

The Toxic Substances Control Act ("TSCA") seeks to reduce risks of injury to health, or the environment associated with the manufacture, processing, distribution, use, or disposal of chemical substances. TSCA requires reporting, record-keeping and testing of certain chemicals and restricts use of some chemical substances and/or mixtures. Some substances are excluded from TSCA, including food, drugs, cosmetics and pesticides. Government agencies may initiate regulatory action to label, restrict, or ban a chemical, or to require the submission of additional data needed to determine the risk a chemical may pose. The statute contains enforcement provisions that include both criminal and civil penalties.

Our policy is to operate our plant and facilities in a manner that protects the environment and the health and safety of our employees and the public. We intend to continue to make expenditures for environmental protection and improvements in a timely manner consistent with our policies and with the technology available. In some cases, applicable environmental regulations such as those adopted under the Clean Air Act and RCRA, and related actions of regulatory agencies, determine the timing and amount of environmental costs incurred by us.

We establish reserves for closure/post-closure costs associated with the environmental and other assets we maintain. Environmental assets include waste management units, such as chemical waste destructors, storage tanks, and boilers. When these types of assets are constructed or installed, a reserve is established for the future costs anticipated to be associated with the closure of the site based on the expected life of the environmental assets, the applicable regulatory closure requirements, and our environmental policies and practices. These expenses are charged into earnings over the estimated useful life of the assets. Currently, we estimate the useful life of each individual asset up to 27 years.

In addition to our general environmental policies and policies for asset retirement obligations and environmental reserves, we accrue environmental costs when it is probable that we have incurred a liability and the amount can be reasonably estimated. In some instances, the amount cannot be reasonably estimated due to insufficient data, particularly in the nature and timing of the future performance. In these cases, the liability is monitored until such time that sufficient data exists. With respect to a contaminated site, the amount accrued reflects our assumptions about remedial requirements at the site, the nature of the remedy, the outcome of discussions with regulatory agencies and other potentially responsible parties at multi-party sites, and the number and financial viability of other potentially responsible parties. Changes in the estimates on which the accruals are based, unanticipated government enforcement action, or changes in health, safety, environmental, chemical control regulations, and testing requirements could result in higher or lower costs.

Our cash expenditures related to environmental protection and improvement were approximately \$11,991,000, \$12,854,000, and \$10,268,000 for the years ended December 31, 2024, 2023 and 2022, respectively, and are included in costs of goods sold in the consolidated statements of income for each period. These amounts pertain primarily to operating costs associated with environmental protection equipment and facilities but also include expenditures for construction and development. The USEPA recently updated the Miscellaneous Organic NESHAP ("MON") regulation, 40 CFR Part 63 Subpart FFFF, which governs emissions from organic chemical manufacturing facilities. To comply with this regulation, we updated equipment monitoring systems, chemical leak detection programs, maintenance programs, vessel pressure relief systems, emission reporting protocols and related procedures. While we do not expect future environmental capital expenditures arising from requirements of environmental laws and regulations to materially increase our planned level of annual capital expenditures for environmental control facilities, we can give no assurances that such requirements will not materialize in the future.

We believe that we have obtained, in all material respects, the necessary environmental permits and licenses to carry on our operations as presently conducted. We have reviewed environmental investigations of the properties owned by us and believe, based on the results of the investigations carried out to date, that there are no material environmental issues that adversely impact us. In connection with our acquisition of our warehouse in Batesville, the seller agreed to remediate certain environmental conditions existing at the facility on the date that we acquired it and to indemnify us with respect to those environmental conditions. We continue to monitor the seller's compliance with its remediation obligations.

The Company is a leading provider of renewable fuel and actively works to reduce its carbon footprint. The Company supports the global movement transitioning to a low-carbon economy and strives to control climate change related costs through process innovation, inventory control, and price indexing. Energy, transportation, and raw material costs have all been negatively impacted by climate change.

The Company has the ability to treat hazardous and non-hazardous waste on-site. Over 99% of all generated waste is treated at the facility, eliminating most greenhouse gas emissions associated with transportation of waste, and significantly reducing liability associated with public exposure to waste.

Greenhouse gases may have an adverse impact on global weather patterns and crop production and, therefore, could impact the availability and pricing of raw materials used in biodiesel production. The Company has developed strategies for coping with seasonal, weather related, and market driven volatility. These strategies improve the Company's ability to dampen the impact of climate driven challenges but may not successfully overcome poor market conditions. Profits may be negatively impacted if the Company is unable to pass along price increases to our customers.

The Company's chemical segment uses many commodities derived from crude oil feedstock. These materials are affected by climate change driven policies that regulate petroleum and other energy production industries. Prices are subject to volatility caused in part by supply and demand, political movements, production difficulties, transportation disruptions, and other world events that may be linked to climate change.

The Company has on-site emergency response equipment, trained personnel, and preparedness plans in place detailing actions needed to cope with the occurrence of severe weather. The Company's production location is in an area generally unaffected by hurricanes or floods; however, changing weather patterns and the increased occurrence of severe weather has the potential to impede raw material supply lines, product distribution, and plant operations. Key raw materials and spare production equipment are maintained on-site to mitigate the effects of such occurrences.

Management Team and Human Capital

Our executive management team at the Batesville plant consists of individuals with a combined 100 plus years of experience in the chemicals industry, comprising technical, operational, and business responsibilities. The members of the executive team also have international experience, including assignments in Europe and Asia. The operational and commercial management group at the Batesville site includes additional degreed professionals with an average experience of more than 30 years in the chemical industry.

Our Batesville workforce comprises approximately 537 full and part time non-union employees, and includes degreed professionals including chemists (some with PhDs) and engineers (including licensed professional electrical, mechanical, and chemical engineers). Operations personnel have received extensive training and are highly skilled. Additionally, all site manufacturing and infrastructure is fully automated and computer-controlled. Due to the lack of locally-available process industry infrastructure, the workforce is substantially self-sufficient in the range of required operational skills and experience. Voluntary attrition at the site has averaged 10% over the past five years. Our Batesville operation is also supported by a small commercial team based in our corporate office in Clayton, Missouri.

Available Information

We file annual, quarterly, and other reports, proxy statements, and other information with the SEC. The SEC maintains an Internet site that contains reports, proxy and information statements, and other information regarding issuers such as us that file electronically with the SEC. You may access that site at <https://www.sec.gov>.

Our Internet website address is www.futurefuelcorporation.com. We make available free of charge, through the "Investors" section of our Internet website (<https://futurefuel-corporation.ir.rdgfilings.com>), our annual reports on Form 10-K, quarterly reports on Form 10-Q, current reports on Form 8-K, and amendments to those reports, filed or furnished pursuant to Section 13(a) or 15(d) of the Securities Exchange Act of 1934, as amended (or the Exchange Act), as soon as reasonably practicable after electronically filing such material with, or furnishing it to, the SEC.

We also make available free of charge, through the "Investors - Corporate Governance" section of our website (<https://futurefuel-corporation.ir.rdgfilings.com/corporate-governance>), the corporate governance guidelines of our board of directors, the charters of each of the committees of our board of directors, and the code of business conduct and ethics for our directors, officers, and employees. Such materials will be made available in print upon the written request of any shareholder to FutureFuel Corp., 8235 Forsyth Blvd., 9th Floor, Clayton, Missouri 63105, Attention: Investor Relations.

Item 1A. Risk Factors.

An investment in us involves a high degree of risk and may result in the loss of all or part of your investment. You should consider carefully all of the information set out in this document and the risks attaching to an investment in us, including, in particular, the risks described below. The information below does not purport to be an exhaustive list and should be considered in conjunction with the contents of the rest of this document.

Risks Related to Economic Conditions, Governmental Action, and our Industry

Our industry is greatly influenced by the U.S. and overall global economy and as such adverse economic conditions have the potential to adversely affect our business, results of operations, or financial condition.

We are subject to various U.S. and global economic conditions, including our sourcing of certain raw materials for our chemicals segment internationally. Accordingly, adverse changes in these conditions, including supply chain disruptions and price inflation for those raw materials, can adversely impact our business. The impacts include, but are not limited to:

- a significant decline in demand for our products due to market disruptions, resulting in a decline in sales and prices;
- limitations of feedstocks, price volatility, or disruptions to our suppliers' operations;
- the interruption of our distribution system, or temporary or long-term disruption in our supply chains, or delays in the delivery of our product;
- suspension of renewable fuel and/or low carbon fuel policies;
- limitations on our ability to operate our business as a result of federal, state or local regulations including taxes and tariffs; and
- decreases in the demand for and price of RINs and LCFS credits as a result of reduced demand for petroleum-based gasoline and diesel fuel.

We operate within the biomass-based diesel industry, which is significantly influenced by governmental programs requiring or incentivizing the consumption of biofuels, including the BTC and CFPC. The expiration or loss of mandates or incentives would have a material adverse effect on our business.

The biomass-based diesel industry relies on governmental programs requiring or incentivizing the consumption of biofuels. Biomass-based diesel has historically been more expensive to produce than petroleum-based diesel fuel and these governmental programs support a market for biomass-based diesel that might not otherwise exist. The petroleum industry is opposed to many of these government incentives and can be expected to continue to challenge these incentives.

Historically, the most significant tax incentive program in the biomass-based diesel industry has been the BTC. Under the BTC, the first market participant to blend pure biomass-based diesel with petroleum-based diesel fuel receives a one dollar per gallon refundable tax credit. From time to time, the BTC has expired and been retroactively reinstated. Most recently, the Inflation Reduction Act, adopted in August 2022, extended the BTC through December 31, 2024, but provided for its replacement by the CFPC on January 1, 2025. The CFPC is structured on a sliding scale so that producers become eligible for larger credits as the GHG emissions of the fuels they produce approach zero. For producers meeting prevailing wage and registered apprenticeship requirements, the maximum credit is \$1.00 per gallon of biodiesel. However, the maximum credit would require zero GHG emissions which is unrealistic for almost every biodiesel producer, including the Company. Guidance surrounding this credit has yet to be finalized despite the effective date of the CFPC. Given our relative position to other biodiesel producers and the importance of such incentives to our operations, a reduction or elimination of these governmental incentives could have a material adverse effect on us and on the biodiesel industry in general. Specifically, if biodiesel prices decrease as a result of the expiration or significant reduction in these governmental incentives and biodiesel feedstock costs do not decrease proportionately, we could realize a negative gross margin on biodiesel. As a result, we could be forced to cease production of biodiesel, which would have an adverse effect on our financial condition.

Our biofuels operations may be harmed if federal or state governments were to change current laws and regulations.

Alternative fuels businesses benefit from government subsidies and mandates. If any of the state or federal laws and regulations relating to the government subsidies and mandates change, our ability to benefit from our alternative fuels business could be harmed.

With respect to our biofuels platform, the United States Congress could repeal, curtail or otherwise change the RFS2 program in a manner adverse to us. Similarly, the USEPA could curtail or otherwise change its administration of the RFS2 program in a manner adverse to us, including by not increasing or even decreasing the required renewable fuel volumes, by waiving compliance with the required renewable fuel volumes or otherwise. In addition, while Congress specified RFS2 renewable fuel volume requirements through 2022 (subject to adjustment in the rulemaking process), beginning in 2023 required volumes of renewable fuel will be largely at the discretion of the USEPA (in coordination with the Secretary of Energy and Secretary of Agriculture). We cannot predict what changes, if any, will be instituted or the impact of any changes on our business, although adverse changes could seriously harm our revenues, earnings and financial condition.

Further, our biofuels platform is subject to federal, state, and local laws and regulations governing the application and use of alternative energy products, including those related specifically to biodiesel. For instance, biodiesel benefits from successful completion of USEPA Tier I and Tier II health effects testing under Section 211(b) of the Clean Air Act. This testing verified biodiesel does not pose a threat to human health and improves air quality as a replacement for petroleum diesel. Also, portions of our biofuels may, from time to time, be registered in states where we obtain benefits from state specific subsidies, mandates or programs. If federal or state agency determinations, laws, and regulations relating to the application and use of alternative energy are changed, the marketability and sales of biodiesel production could be materially adversely affected.

We have historically derived a significant portion of our revenues from sales of our biofuels in the State of California primarily as a result of California's Low Carbon Fuel Standard ("LCFS"); adverse changes in this law or reductions in the value of LCFS credits would harm our revenues and profits.

The LCFS is designed to reduce GHG emissions associated with transportation fuels used in California by ensuring that the total amount of fuel consumed meets declining targets for such emissions. The regulation quantifies lifecycle GHG emissions by assigning a "carbon intensity" ("CI") score to each transportation fuel based on that fuel's lifecycle assessment. Each petroleum fuel provider, generally the fuel's producer or importer is required to ensure that the overall CI score for its fuel pool meets the annual carbon intensity target for a given year. This obligation is tracked through credits and deficits and credits can be traded. We generate LCFS credits when we sell qualified fuels which are used in California. As a result of the trading price of LCFS credits, California has become a desirable market in which to sell our biodiesel. If the value of LCFS credits were to materially decrease as a result of over-supply, as a result of reduced demand for our fuels, if the fuel produced is deemed not to qualify for LCFS credits, or if the LCFS or the manner in which it is administered or applied were otherwise changed in a manner adverse to us, our revenues and profits could be seriously harmed.

The industries in which we compete are highly competitive.

The biodiesel and specialty chemical industries are highly competitive. There is competition within these industries and also with other industries in supplying the energy, fuel, and chemical needs of industry and individual customers. We compete with other firms in the sale or purchase of various goods or services in many national and international markets. We compete with large national and multi-national companies that have longer operating histories, greater financial, technical, and other resources, and greater name recognition than we do. In addition, we compete with several smaller companies capable of competing effectively on a regional or local basis. Our competitors may be able to respond more quickly to new or emerging technologies and services and changes in customer requirements. As a result of competition, we may lose market share or be unable to maintain or increase prices for our products and/or services or to acquire additional business opportunities, which could have a material adverse effect on our business, financial condition, results of operations, and cash flows. Although we will employ all methods of competition that are lawful and appropriate for such purposes, no assurances can be made that they will be successful. A key component of our competitive position, particularly given the commodity-based nature of many of our products, will be our ability to manage expenses successfully, which requires continuous management focus on reducing unit costs and improving efficiency. No assurances can be given that we will be able to successfully manage such expenses.

Our competitive position in the markets in which we participate is, in part, subject to external factors, in addition to those that we can impact. Natural disasters, changes in laws or regulations, trade disputes, war or other outbreak of hostilities, or other political factors in any of the countries or regions in which we operate or do business, or in countries or regions that are key suppliers of strategic raw materials, could negatively impact our competitive position and our ability to maintain market share.

As to our biofuels segment, biodiesel produced in Canada, South America, Europe, Eastern Asia, the Pacific Rim, or other regions may be imported into the United States to compete with U.S. -produced biodiesel. These regions may benefit from biodiesel production incentives or other financial incentives in their home countries that offset some of their biodiesel production costs and enable them to profitably sell biodiesel in the U.S. at lower prices than U.S.-based biodiesel producers. Under the RFS2, imported biodiesel may be eligible to satisfy an obligated party's requirements and, therefore, may compete to meet the volumetric requirements of RFS2. This could make it more challenging for us to market or sell biodiesel in the United States, which would have a material adverse effect on our revenues.

The total current U.S. production capacity for biodiesel is in excess of the current RFS2 mandate for 2023 and 2024. Excess production capacity over the annual mandates could result in a decline in biodiesel prices and profitability, negatively impacting our ability to maintain the profitability of our biofuels segment and recover capital expenditures in this business segment.

Biodiesel is encountering increased competition from renewable diesel, which is produced via hydrotreating a biomass-based feedstock. Renewable diesel can be used interchangeably with conventional petroleum diesel, is not limited in blends, and can be transported via existing fuel pipeline infrastructure. A significant capital investment would be required for the Company to produce renewable diesel, and the current economics and business uncertainty do not support this level of investment.

Fluctuations in commodity prices may cause a reduction in the demand or profitability of the products or services we produce.

Prices for alternative fuels tend to fluctuate widely based on a variety of political and economic factors. These price fluctuations heavily influence the oil and gas industry. Lower energy prices for existing products tend to limit the demand for alternative forms of energy services and related products and infrastructure. Historically, the markets for alternative fuels have been volatile, and they are likely to continue to be volatile. Wide fluctuations in alternative fuel prices may result from relatively minor changes in the supply of and demand for oil and natural gas, market uncertainty, and other factors that are beyond our control, including:

- worldwide and domestic supplies of oil and gas;
- the price and/or availability of biodiesel feedstocks;
- weather conditions;
- the level of consumer demand;
- the price and availability of alternative fuels;
- the availability of pipeline and refining capacity;
- the price and level of foreign imports;
- domestic and foreign governmental regulations and taxes and trade restrictions, including tariffs;
- the ability of the members of the Organization of Petroleum Exporting Countries (OPEC) to agree to and maintain oil price and production controls;
- political instability or armed conflict in oil-producing regions;
- pandemics, epidemics, or disease outbreaks; and
- the overall economic environment.

These factors and the volatility of the commodity markets make it extremely difficult to predict future alternative fuel price movements with any certainty. There may be a decrease in the demand for our products or services and our profitability could be adversely affected.

We are reliant on certain strategic raw materials for our operations.

We are reliant on certain strategic raw materials (such as biodiesel feedstocks and methanol) for our operations. We have implemented certain risk management tools, such as multiple suppliers and hedging, to mitigate short-term market fluctuations in raw material supply and costs. There can be no assurance, however, that such measures will result in cost savings or supply stability or that all market fluctuation exposure will be eliminated. In addition, inflation, natural disasters, changes in laws or regulations, war or other outbreak of hostilities, or other political factors in any of the countries or regions in which we operate or do business, or in countries or regions that are key suppliers of strategic raw materials, could affect availability and costs of raw materials.

While temporary shortages of raw materials may occasionally occur, these items have historically been sufficiently available to cover current requirements. However, their continuous availability and price are impacted by natural disasters, plant interruptions occurring during periods of high demand, domestic and world market and political conditions, changes in government regulation, and war or other outbreak of hostilities. In addition, as we increase our biodiesel capacity, we will require larger supplies of raw materials, which have not yet been secured and may not be available for the foregoing reasons or may be available only at prices higher than current levels. Our operations or products may, at times, be adversely affected by these factors.

Market conditions or transportation impediments may hinder access to raw goods and distribution markets.

Market conditions, the unavailability of satisfactory transportation, or the location of our manufacturing complex from more lucrative markets may hinder our access to raw goods and/or distribution markets. The availability of a ready market for biodiesel depends on a number of factors, including the demand for and supply of biodiesel and the proximity of the plant to trucking and terminal facilities. The sale of large quantities of biodiesel necessitates that we transport our biodiesel to other markets, since the Batesville, Arkansas regional market is not expected to absorb all of our contemplated production. Common carrier pipelines do not transport biodiesel or biodiesel/ petrodiesel blends, which means trucks, barges, and rail cars are the potentially available means of distribution of our product from the plant to these storage terminals for further distribution. However, the availability of rail cars is limited and at times unavailable because of repairs or improvements, or as a result of priority transportation agreements with other shippers. Additionally, the current availability of barges is limited, particularly heated barges to transport biodiesel during winter months. If transportation is restricted or is unavailable, we may not be able to sell into more lucrative markets, and consequently our cash flow from sales of biodiesel could be restricted.

Concerns regarding the environmental impact of biodiesel production could affect public policy, which could impair our ability to operate at a profit and substantially harm our revenues and operating margins.

The environmental impacts associated with biodiesel production and use have not yet been fully analyzed. Under the 2007 Energy Independence and Security Act, the USEPA is required to produce a study every three years of the environmental impacts associated with current and future biofuel production and use, including effects on air and water quality, soil quality and conservation, water availability, energy recovery from secondary materials, ecosystem health and biodiversity, invasive species, and international impacts. The first such triennial report was published in January 2011. The second triennial report was published June 29, 2018. The 2018 report reaffirms the findings of the 2011 report and reflects the current understanding about biofuel production using data gathered through May 2017. The USEPA released its third triennial report to Congress on biofuels and the environment in 2023, which builds on the previous two reports and provides an update on the impacts to date of the RFS and RFS2 on the environment.

To the extent that state or federal laws are modified, or public perception turns against biodiesel, use requirements, such as RFS2, may not continue, which could materially harm our ability to operate profitably.

Climate change regulations may impact our ability to operate at a profit and harm our operating margins.

Future regulations may impose new operational burdens, require investment in additional emission control technology, or result in unfavorable market changes. The cost of compliance with stringent climate change regulations could adversely affect our ability to compete with companies in locations that are not subject to stringent climate change regulations.

Growth in the sale and distribution of biodiesel is dependent on the expansion of related infrastructure, which may not occur on a timely basis, if at all, and our operations could be adversely affected by infrastructure limitations or disruptions.

Growth in the biodiesel industry depends on substantial development of infrastructure for the distribution of biodiesel. Substantial investment required for these infrastructure changes and expansions may not be made on a timely basis or at all. The scope and timing of any infrastructure expansion are generally beyond our control. Also, we compete with other biofuel companies for access to some of the key infrastructure components, such as terminal capacity. As a result, increased production of biodiesel or other biofuels will increase the demand and competition for necessary infrastructure. Any delay or failure in expanding distribution infrastructure could hurt the demand for or prices of biodiesel, impede delivery of our biodiesel, and impose additional costs, each of which would have a material adverse effect on our results of operations and financial condition. Our business will be dependent on the continuing availability of infrastructure for the distribution of increasing volumes of biodiesel and any infrastructure disruptions could materially harm our business.

Nitrogen oxide emissions from biodiesel may harm its appeal as a renewable fuel and increase costs.

In some instances, biodiesel may increase emissions of nitrogen oxide as compared to petrodiesel, which could harm air quality. Nitrogen oxide is a contributor to ozone depletion and smog. These emissions may decrease the appeal of biodiesel to environmental groups and agencies who have been historic supporters of the biodiesel industry, potentially hampering our ability to market our biodiesel.

In addition, several states have acted to regulate potential nitrogen oxide emissions from biodiesel. Texas currently requires biodiesel blends contain an additive to eliminate this perceived nitrogen oxide increase. California is in the process of formulating biodiesel regulations that may also require such an additive. The USEPA may also institute requirements for such an additive. In states where such an additive is required to sell biodiesel, the additional cost of the additive may make biodiesel less profitable or make biodiesel less cost competitive against petrodiesel or renewable diesel, which would negatively impact our ability to sell our products in such states and therefore have an adverse effect on our revenues and profitability.

Risks Related to our Business

We are exposed to operating risks.

As a manufacturer of diversified chemical products and biofuels, our business is subject to operating risks common to chemical manufacturing, storage, handling, and transportation. These risks include, but are not limited to, fires, explosions, inclement weather, natural disasters, mechanical failure, unscheduled downtime, transportation interruptions, remediation, chemical spills, discharges or releases of toxic or hazardous substances or gases. Significant limitation on our ability to manufacture products due to disruption of manufacturing operations or related infrastructure could have a material adverse effect on our sales revenue, costs, results of operations, and financial condition.

Disruptions could also occur due to internal factors such as computer or equipment malfunction (accidental or intentional), operator error, or process failures; or external factors such as computer or equipment malfunction at third-party service providers, natural disasters, pandemic illness, changes in laws or regulations, war or other outbreak of hostilities or terrorism, cyber-incidents, or breakdown or degradation of transportation infrastructure used for delivery of supplies to the Company or for delivery of products to customers. We have recently suffered increasingly frequent, unscheduled and extended service utility downtime as a result of supplier delays and quality issues beyond our control. No assurances can be provided that any future disruptions due to these, or other, circumstances will not have a material effect on operations. Such disruptions could result in an unplanned event that could be significant in scale and could negatively impact operations, neighbors, and the environment, and could have a negative impact on our results of operations.

We are reliant upon a relatively small number of customers.

Our chemical business is concentrated with four large customers covering multiple products representing greater than 84% of our chemicals segment product sales, or 28% of total revenues. Although this business is contracted in longer-term production agreements, the loss of any of these strategic customers could have a material adverse effect on our chemicals business.

Additionally, our biofuels segment has two large customers. We do not believe that the loss of these customers would have a material adverse effect on our biofuels segment or on us as a whole in that: (i) unlike our custom manufacturing products, biodiesel is a commodity with a large potential customer base; (ii) we believe that we could readily sell our biodiesel to other customers as potential demand from other customers for biodiesel exceeds our production capacity; (iii) our sales to these customers are not under fixed terms and the customers have no fixed obligation to purchase any minimum quantities except as stipulated by short term purchase orders; and (iv) the prices we receive from these customers are based upon then-market rates, as would be the case with sales of this commodity to other customers.

Sales to these biodiesel customers totaled approximately 25% of total revenue (or \$59,867,000) in 2024. Sales in 2023 to our two largest customers represented 35% of total revenues (or \$127,763,000). Sales to our two largest biodiesel customers totaled 27% of total revenues in 2022 (or \$107,898,000). We do not have a contract with these customers but rather sell based on monthly or short-term, multi-month purchase orders placed with us by the customers at prices based upon then-prevailing market rates.

Changes in technology may render our products or services obsolete.

The alternative fuel and chemical industries may be substantially affected by rapid and significant changes in technology. Examples include competitive product technologies, such as green gasoline, renewable diesel produced from catalytic hydrotreating of renewable feedstock oils, and competitive process technologies, such as advanced biodiesel continuous reactor and washing designs that increase throughput. Additionally, new supplies of natural gas in the U.S., primarily as a result of shale gas development, have lowered natural gas prices. Lower natural gas prices may lead to increased use of natural gas as a transportation fuel. Increased usage of natural gas in the transportation market, or other markets that have traditionally used petrodiesel or biodiesel, may lead to declines in the demand for petrodiesel and biodiesel. Lastly, new and more active compounds may be discovered that require less volume or different manufacturing methods, or the end products may become obsolete and be replaced with differing materials.

These changes may render obsolete certain existing products, energy sources, services, and technologies currently used by us. We cannot provide assurances that the technologies used by or relied upon by us will not be subject to such obsolescence. While we may attempt to adapt and apply the services provided by us to newer technologies, we cannot provide assurances that we will have sufficient resources to fund these changes or that these changes will ultimately prove successful.

Failure to comply with governmental regulations could result in the imposition of penalties, fines or restrictions on operations and remedial liabilities.

The biofuel and chemical industries are subject to extensive federal, state, local, and foreign laws and regulations related to the general population's health and safety and those associated with compliance and permitting obligations (including those related to the use, storage, handling, discharge, emission, and disposal of municipal solid waste and other waste, pollutants or hazardous substances or waste, or discharges and air and other emissions) as well as land use and development. Existing laws also impose obligations to clean up contaminated properties, or to pay for the cost of such remediation, often upon parties that did not cause the contamination. Compliance with these laws, regulations, and obligations could require substantial capital expenditures. Failure to comply could result in the imposition of penalties, fines, or restrictions on operations and remedial liabilities. These costs and liabilities could adversely affect our operations.

Changes in environmental laws and regulations occur frequently, and any changes that result in more stringent or costly waste handling, storage, transport, disposal, or cleanup requirements could require us to make significant expenditures to attain and maintain compliance and may otherwise have a material adverse effect on our business segments in general and on our results of operations, competitive position, or financial condition. We are unable to predict the effect of additional environmental laws and regulations that may be adopted in the future, including whether any such laws or regulations would materially increase our cost of doing business or adversely affect our operations in any area.

Under certain environmental laws and regulations, we could be held strictly liable for the removal or remediation of previously released materials or property contamination regardless of whether we were responsible for the release or contamination, or if current or prior operations were conducted consistent with accepted standards of practice. Such liabilities can be significant and, if imposed, could have a material adverse effect on our financial condition or results of operations.

Our insurance may not protect us against our business and operating risks.

We maintain insurance for some, but not all, of the potential risks and liabilities associated with our business. For some risks, we may not obtain insurance if we believe the cost of available insurance is excessive relative to the risks presented. As a result of market conditions, premiums and deductibles for certain insurance policies can increase substantially and, in some instances, certain insurance policies may become unavailable or available only for reduced amounts of coverage. As a result, we may not be able to renew our existing insurance policies or procure other desirable insurance on commercially reasonable terms, if at all. Although we will maintain insurance at levels we believe are appropriate for our business and consistent with industry practice, we will not be fully insured against all risks that cannot be sourced on economic terms. In addition, pollution and environmental risks generally are not fully insurable. Losses and liabilities from uninsured and underinsured events and delay in the payment of insurance proceeds could have a material adverse effect on our financial condition and results of operations.

If a significant accident or other event resulting in damage to our operations (including severe weather, terrorist acts, war, civil disturbances, pollution, or environmental damage) occurs and is not fully covered by insurance or a recoverable indemnity from a customer, it could adversely affect our financial condition and results of operations.

We depend on key personnel, the loss of any of whom could materially adversely affect our future operations.

Our success depends to a significant extent upon the efforts and abilities of our executive officers and lead management team. The loss of the services of one or more of these key employees could have a material adverse effect on us. Our business is also dependent upon our ability to attract and retain qualified personnel. Acquiring or retaining these personnel could prove more difficult to hire or cost substantially more than estimated. This could cause us to incur greater costs.

If we are unable to effectively manage the commodity price risk of our raw materials or finished goods, we may have unexpected losses.

We hedge our raw materials and/or finished products for our biofuels segment to some degree to manage the commodity price risk of such items. This requires the purchase or sale of commodity futures contracts and/or options on those contracts or similar financial instruments. We may be forced to make cash deposits available to counterparties as they mark-to-market these financial hedges. This funding requirement may limit the level of commodity price risk management that we are prudently able to complete. If we do not manage or are not capable of managing the commodity price risk of our raw materials and/or finished products for our biofuels segment, we may incur losses as a result of price fluctuations with respect to these raw materials and/or finished products.

In most cases, we are not capable of hedging raw material and/or finished products for our chemicals segment. Certain of our products are produced under manufacturing agreements with our customers, which provide us the contractual ability to pass along raw material price increases. However, we do not have this protection for all product lines within the chemicals segment. If we do not manage or are not capable of managing escalating raw material prices and/or passing these increases along to our customers via increased prices for our finished products, we may incur losses.

If we are unable to acquire or renew permits and approvals required for our operations, we may be forced to suspend or cease operations altogether.

The operation of our manufacturing plant requires numerous permits and approvals from governmental agencies. We may not be able to obtain or renew all necessary permits (or modifications thereto) and approvals and, as a result, our operations may be adversely affected. In addition, obtaining all necessary renewal permits (or modifications to existing permits) and approvals for future expansions may necessitate substantial expenditures and may create a significant risk of expensive delays or loss of value if a project is unable to function as planned due to changing requirements.

Our indebtedness may limit our ability to borrow additional funds or capitalize on acquisition or other business opportunities.

We hold a \$75 million revolving credit facility with a commercial bank. This credit facility expires in February 2030. Although as of the date of this report we have no outstanding borrowings under the existing facility, if and when we do borrow, the restrictions governing this type of indebtedness (such as total debt to EBITDA limitations) could reduce our ability to incur additional indebtedness, engage in certain transactions, or capitalize on acquisition or other business opportunities.

We expect to have capital expenditure requirements, and we may be unable to obtain needed financing on satisfactory terms due to inflation and increased interest rates.

We expect to make capital expenditures for the expansion of our biofuels and chemicals production capacity and complementary infrastructure. We intend to finance these capital expenditures primarily through cash flow from our operations, borrowings under our credit facility, and existing cash. However, if our capital requirements vary materially from those provided for in our current projections, we may require additional financing sooner than anticipated. A decrease in expected revenues, in addition to high rates of inflation and high interest rates currently being experienced and expected to persist in the near-term could make obtaining this financing economically unattractive or impossible. As a result, we may lack the capital necessary to complete the projected expansions or capitalize on other business opportunities.

We may be unable to successfully integrate future acquisitions with our operations or realize all of the anticipated benefits of such acquisitions.

Failure to successfully integrate future acquisitions, if any, in a timely manner may have a material adverse effect on our business, financial condition, results of operations, and cash flows. The difficulties of combining acquired operations include, among other things:

- operating a significantly larger combined organization;
- consolidating corporate technological and administrative functions;
- integrating internal controls and other corporate governance matters; and
- diverting management's attention from other business concerns.

In addition, we may not realize all of the anticipated benefits from future acquisitions, such as increased earnings, cost savings, and revenue enhancements, for various reasons, including difficulties integrating operations and personnel, higher and unexpected acquisition and operating costs, unknown liabilities, and fluctuations in markets. If benefits from future acquisitions do not meet the expectations of financial or industry analysts, the market price of our shares of common stock may decline.

If we are unable to respond to changes in ASTM or customer standards, our ability to sell biodiesel may be harmed.

We currently produce biodiesel to conform to or exceed standards established by ASTM. ASTM standards for biodiesel and biodiesel blends may be modified in response to new observations from the industries involved with diesel fuel. New tests or more stringent standards may require us to make additional capital investments in, or modify, plant operations to meet these standards. In addition, some biodiesel customers have developed their own biodiesel standards that are stricter than the ASTM standards. If we are unable to meet new ASTM standards or our biodiesel customers' standards cost effectively or at all, our production technology may become obsolete, and our ability to sell biodiesel may be harmed, negatively impacting our revenues and profitability.

If we fail to maintain effective internal control over financial reporting, we might not be able to report our financial results accurately or prevent fraud; in that case, our stockholders could lose confidence in our financial reporting, which would harm our business and could negatively impact the value of our stock.

Effective internal controls are necessary for us to provide reliable financial reports and prevent fraud. The process of maintaining our internal controls may be expensive, and time consuming, and may require significant attention from management. We previously identified a material weakness in our internal control over financial reporting related to review controls of our cash flow statement. We remediated this material weakness and have concluded as of December 31, 2024, that our internal control over financial reporting provides reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP. However, because of its inherent limitations, internal control over financial reporting may not prevent or detect fraud or misstatements. Failure to implement required new or improved controls, or difficulties encountered in their implementation, could harm our results of operations or cause us to fail to meet our reporting obligations. If we or our independent registered public accounting firm discover a material weakness, the disclosure of that fact could harm the value of our stock and our business.

The risk of loss of the Company's intellectual property, trade secrets or other sensitive business information or disruption of operations could negatively impact the Company's financial results.

The Company has information and information processing assets, including intellectual property, trade secrets, and other sensitive, business critical information as well as on-premises and cloud-based business applications critical to conducting business. In addition, our chemical manufacturing facilities are highly automated using modern computer systems. Cyber-incidents affecting the Company, its supply chain or customers could compromise confidential, business critical information, cause a disruption in the Company's operations, harm the Company's reputation, or endanger the environment if the Company, its suppliers or customers do not effectively prevent, detect and recover from these or other security breaches. The Company, like many companies today, is the target of industrial espionage, including cyber-attacks. The Company has determined that these cyber-attacks have resulted, and could result in the future, in unauthorized parties gaining access to certain confidential business information. When unauthorized access is discovered, the Company reports such situations to governmental authorities for investigation, as appropriate, and takes measures to mitigate any potential impact.

Although management does not believe that the Company has experienced any material losses to date related to these cyber security incidents, there can be no assurance that such losses will not be suffered in the future. The Company seeks to actively manage the risks within its control that could lead to business disruptions and cyber security incidents through a comprehensive cyber security program that is continuously reviewed (through internal and third-party auditing), maintained, and upgraded. As these threats continue to evolve, particularly around cybersecurity, the Company may be required to expend significant resources to enhance its control environment, processes, practices, and other protective measures. Despite these efforts, such events could have a material adverse effect on the Company's business, results of operations, financial condition and cash flows.

Confidentiality agreements with customers, employees, and others may not adequately prevent disclosures of confidential information, trade secrets, and other proprietary information.

We rely in part on trade secret protection to protect our confidential and proprietary information and processes. However, trade secrets are difficult to protect. We have taken measures to protect our trade secrets and proprietary information, but these measures may not be effective. For example, we require new custom manufacturing chemical customers to execute confidentiality agreements before we begin manufacturing custom chemicals for them. We also require employees and consultants to execute confidentiality agreements upon the commencement of their employment or consulting arrangement with us. These agreements generally require that all confidential information developed by the individual or made known to the individual by us during the course of the individual's relationship with us be kept confidential and not disclosed to third parties. These agreements also generally provide that know-how and inventions conceived by the individual in the course of rendering services to us are our exclusive property. Nevertheless, these agreements may be breached, or may not be enforceable, and our proprietary information may be disclosed. Further, despite the existence of these agreements, third parties may independently develop substantially equivalent proprietary information and techniques. Accordingly, it may be difficult for us to protect our trade secrets. Costly and time-consuming litigation could be necessary to enforce and determine the scope of our proprietary rights, and failure to obtain or maintain trade secret protection could adversely affect our competitive business position.

Moreover, we cannot assure that our technology does not infringe upon any valid claims of patents that other parties own. In the future, if we were found to be infringing on a patent owned by a third party, we might have to seek a license from such third party to use the patented technology. We cannot assure that, if required, we would be able to obtain such a license on terms acceptable to us, if at all. If a third party brought a legal action against us or our licensors, we could incur substantial costs in defending ourselves, and we cannot assure that such an action would be resolved in our favor. If such a dispute were to be resolved against us, we could be subject to significant damages.

We depend on our ability to maintain relationships with industry participants, including our strategic partners.

Our ability to maintain commercial arrangements with chemical and biodiesel customers, raw material and feedstock suppliers, and transportation and logistics services providers may depend on maintaining close working relationships with industry participants. There can be no assurance that we will be able to maintain or establish additional necessary strategic relationships, in which case the opportunity to grow our business may be negatively affected.

There is disruption in supply in the renewable fuel market currently without clarity on the CFPT credit. However, under normal conditions there is excess renewable fuel production capacity and low utilization in the industry and if non-operational and underused facilities commence or increase operations, our results of operations may be negatively affected.

Many biodiesel plants in the United States are currently shutdown without clarity on the CFPT credit. Most biodiesel plants, when running, do not operate at full capacity. Further, a number of renewable diesel plants are under construction in the United States as of December 2024, and if completed, would add additional renewable fuel production capacity. The annual production capacity of existing plants and plants under construction far exceeds both historic consumption of renewable fuels in the United States and required consumption under RFS2. If this excess production capacity was used, it would increase competition for our feedstocks, increase the volume of renewable fuels on the market, and may reduce our biodiesel gross margins, harming our revenues and profitability.

Several biofuel companies throughout the United States have filed for bankruptcy over the last several years due to industry and economic conditions.

Unfavorable worldwide economic conditions, lack of financing, and volatile biofuel prices and feedstock costs have likely contributed to the necessity of bankruptcy filings by biofuel producers. Our business may be negatively impacted by the industry conditions that influenced the bankruptcy proceedings of other biofuel producers, or we may encounter new competition from buyers of distressed biodiesel properties who enter the industry at a lower cost than original plant investors.

We are exposed to government credit risk and fluctuations in market values of our cash and cash equivalent portfolio.

We have deposits with certain U.S. banks in excess of the maximum amounts insured by the U.S. Federal Deposit Insurance Corporation (the "FDIC") and holdings in certain United States Government Select Funds. As of December 31, 2024, we maintained with such banks cash balances of approximately \$18.8 million in excess of the amounts insured by the FDIC.

Risks Associated With Owning Our Shares

We may issue substantial amounts of additional shares without stockholder approval.

Our certificate of incorporation authorizes the issuance of 75,000,000 shares of common stock and 5,000,000 shares of preferred stock. As of the date of this report, 43,803,243 shares of our common stock currently are outstanding. The issuance of any additional shares of our common stock or preferred stock would dilute the percentage ownership of our company held by existing stockholders.

The market price of our common stock is highly volatile and may increase or decrease dramatically at any time.

The market price of our common stock is highly volatile, and our shares are thinly traded. Our stock price may change dramatically as the result of: (i) announcements of new products or innovations by us or our competitors; (ii) uncertainty regarding the viability of any of our product initiatives; (iii) significant customer contracts; (iv) significant litigation; (v) uncertainty with respect to changing laws and regulations that impact our business and our ability to take advantage of tax credits such as the BTC and CFPC; or (vi) unscheduled and extended downtime at our facility; or (vii) events that would be expected to affect our business, financial condition, results of operations, and future prospects.

The market price for our common stock may also be affected by various factors not directly related to our business or future prospects, including the following:

- a reaction by investors to trends in our stock rather than the fundamentals of our business;
- a single acquisition or disposition, or several related acquisitions or dispositions, of a large number of our shares, including by short sellers covering their position;
- the interest of the market in our business sector, without regard to our financial condition, results of operations, or business prospects;
- positive or negative statements or projections about us or our industry by analysts and other persons;
- the adoption of governmental regulations or government grant programs and similar developments in the United States or abroad that may enhance or detract from our ability to offer our products and services or affect our cost structure; and
- economic and other external market factors, such as a general decline in market price due to poor economic conditions, investor distrust, or a financial crisis.

If securities or industry analysts issue an adverse or misleading opinion regarding our stock or do not publish research or reports about our business, our stock price and trading volume could decline.

The trading market for shares of our common stock will rely in part on the research and reports that equity research analysts publish about us and our business. The price of our common stock could decline if one or more equity research analysts downgrade our common stock or if those analysts issue other unfavorable commentary or cease publishing reports about us or our business.

If Mr. P.A. Novelly, II or his designees exercises his registration rights, such exercise may have an adverse effect on the market price of our shares of common stock.

St. Albans Global Management, LLC ("St. Albans"), an entity affiliated with Mr. P. A. Novelly II, a member of the board, is entitled to demand that the Company register under the Securities Act of 1933, as amended (the "Securities Act"), the resale of all shares of the Company's common stock beneficially owned by it. If St. Albans exercises its registration rights with respect to all 17,085,100 shares of the Company's common stock currently owned by it, there will be an additional 6,637,600 registered shares of common stock available for trading in the public market, which may have an adverse effect on the market price of our common stock.

We may be suspended or delisted from the New York Stock Exchange if we do not satisfy their continued listing requirements.

Our common stock trades on the NYSE under the symbol "FF". Securities admitted to the NYSE may be suspended from dealing or delisted at any time the listed company fails to satisfy certain continued listing criteria. These criteria could be triggered if, among other things, the number of our publicly-held shares fall below 600,000, the average closing price of our common stock is less than \$1.00 per share over a consecutive 30 trading-day period, or we fail to file certain reports with the SEC. As a matter of practice, the NYSE generally gives a listed company notice if any of these criteria are triggered, and generally provides the listed company with certain cure periods. If we suffer such an event, but do not cure it, or if such event cannot be cured, trading of our common stock on the NYSE may be suspended from dealing or our stock may be delisted. Any such suspension or delisting may have an adverse effect on the market price of our common stock.

Item 1B. Unresolved Staff Comments.

None.

Item 1C. Cybersecurity.

Risk Management and Strategy

The Company understands the importance of managing risks from cybersecurity incidents and utilizes a multilayered strategy guided by the National Institute of Standards and Technology ("NIST") Cybersecurity Framework for assessing, identifying, detecting and responding to threats and other potential incidents. Key aspects of our strategy for managing risks of cybersecurity threats include:

- Timely security patching of endpoints;
- Network and endpoint-based monitoring with autonomous protection capabilities;
- Backups which are regularly tested for recovery with key backups hardened against malicious access;
- Third-party security services for audit, benchmarking, and improvement of our cyber security program
- Ongoing monitoring and evaluation of our cybersecurity posture and performance through regular vulnerability scans, simulated phishing tests, and penetration tests;
- Oversight of third-party service providers by conducting vendor due diligence upon onboarding and ongoing monitoring;
- An incident response plan designed to coordinate the activities that we and our third-party security service providers take to prepare to respond and recover from cybersecurity incidents, which include processes to triage, assess severity, investigate, escalate, contain, and remediate incidents, as well as to comply with applicable legal obligations and mitigate any reputational damage;
- Structured management of change process to ensure material changes to our systems or operations have an updated assessment of their potential impact associated with internal and external threats to the security, confidentiality, integrity, and availability of our data and systems, along with other material risks to our operations;
- Ongoing, annual employee security awareness training; and
- Cybersecurity insurance coverage to help mitigate the risk of loss from cybersecurity incidents.

To date, the Company does not believe that cybersecurity incidents have materially affected the Company, its business strategy, results of operations, or financial condition. The Company cannot provide assurance that it will not be materially affected by any future material cybersecurity incidents. For more information about the cybersecurity risks the Company faces, see Item 1A, Risk Factors, above.

Governance

The Company's Information Technology ("IT") Director is responsible for developing and implementing our cybersecurity program and has over 20 years of cybersecurity experience in various roles involving information security, developing cybersecurity strategies, and implementing cybersecurity programs. Our program includes that all employees complete annual cybersecurity awareness training. The IT Director is responsible for reporting audit findings and risk information to the Company's Chief Financial Officer ("CFO").

Our board of directors is responsible for overseeing our enterprise risk management activities in general, and each of the committees of our board of directors assists the board of directors in the role of risk oversight. The Audit Committee of the board of directors oversees our cybersecurity risk and receives reports from time to time from our CFO on cybersecurity risk management. Promptly after becoming aware of a material cybersecurity incident affecting our IT systems or data, the IT Director would work with management to formulate a mitigation plan and review compliance with such plan, as well as to ensure compliance with any external regulatory or disclosure requirements, including any disclosures of material cybersecurity incidents.

Item 2. Properties.

Our principal asset is a manufacturing plant situated on approximately 2,200 acres of land six miles southeast of Batesville in north central Arkansas fronting the White River. Approximately 500 acres of the site are occupied with batch and continuous manufacturing facilities, laboratories, and infrastructure, including on-site liquid waste treatment. Our subsidiary, FutureFuel Chemical Company, is the fee owner of this plant and the land upon which it is situated (which plant and land are not subject to any major encumbrances) and manufactures both biofuels and chemicals at the plant. Use of these facilities may vary with product mix and economic, seasonal, and other business conditions, but the plant is substantially used with the exception of facilities designated for capacity expansion of biodiesel. The plant, including approved expansions, has sufficient capacity for existing needs and expected near-term growth. We believe that the plant is well maintained, in good operating condition, and suitable and adequate for its uses.

Item 3. Legal Proceedings.

We are not a party to, nor is any of our property subject to, any material pending legal proceedings, other than ordinary routine litigation incidental to our business. From time to time, we may be parties to, or targets of, lawsuits, claims, investigations, and proceedings, including product liability, personal injury, asbestos, patent and intellectual property, commercial, contract, environmental, antitrust, health and safety, and employment matters, which we expect to be handled and defended in the ordinary course of business. While we are unable to predict the outcome of any matters currently pending, we do not believe that the ultimate resolution of any such pending matters will have a material adverse effect on our overall financial condition, results of operations, or cash flows.

Item 4. Mine Safety Disclosures.

Not applicable.

PART II

Item 5. Market for Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Market Information

The shares of our common stock are traded on the NYSE under the trading symbol "FF". As of March 31, 2025, there are 43,803,243 shares of our common stock outstanding.

Holders

The shares of our common stock were held by approximately 308 holders of record on March 31, 2025, as recorded on our transfer agents' register. We believe that the number of beneficial owners of our common stock is substantially greater than the number of holders of record.

Dividends

The payment of cash dividends by us is dependent upon our existing cash and cash equivalents, future earnings, capital requirements, and overall financial condition. We declared and paid regular cash dividends for 2024 and 2023, and we have also declared dividends for 2025. While we anticipate similar regular cash dividends after 2025, no assurances can be given that we will declare or pay dividends for years after 2025. Additionally, we paid a special cash dividend of \$2.50 per share on our common stock on April 9, 2024, to the holders of record of all the issued and outstanding shares of common stock as of the close of business on March 26, 2024.

Securities Authorized for Issuance Under Equity Compensation Plan

Our board of directors adopted an omnibus incentive plan, which was approved by our shareholders at our 2017 annual shareholder meeting (the "Incentive Plan"). We do not maintain any other equity compensation plan or individual equity compensation arrangement. Under the Incentive Plan, awards are limited to 10% of the issued and outstanding shares of our common stock in the aggregate. The shares to be issued under the Incentive Plan were registered with the SEC on a Form S-8 filed on November 9, 2017. Through December 31, 2024, we have issued or awarded 84,000 options to purchase shares of our common stock, 750,000 restricted stock units ("RSUs"), and 40,000 shares of stock, in each case under the Incentive Plan.

Following is additional information regarding the incentive plans as of December 31, 2024.

Plan Category	Number of securities to be issued upon exercise of outstanding units, options, warrants and rights (a)	Weighted-average exercise price of outstanding options, warrants and rights (excluding RSUs reflected in column (a))	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	794,000	\$ 7.33	3,526,324

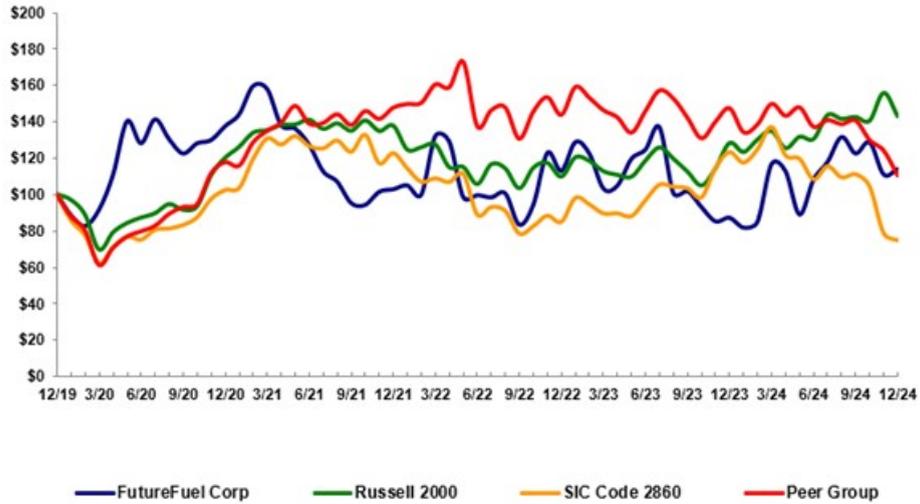
Performance Graph

The graph below compares the cumulative 5-Year total return to holders of the Company's common stock relative to the cumulative total returns of the Russell 2000 index and 24 companies, listed in footnote 1 below. An investment of \$100 (with reinvestment of all dividends) is assumed to have been made in our common stock, in each index and in each of the peer groups on December 31, 2019 and its relative performance is tracked through December 31, 2024.

(1.) The 24 companies included in the company's peer group are: Archer-Daniels-Midland Co, Arkema S.A., Albemarle Corp, Alto Ingredients Inc, Aemetis Inc, Bunge Global S.A., Cabot Corp, Chemours Co, Celanese Corp, Darling Ingredients Inc, Dow Inc, Eastman Chemical Co, Gevo Inc, Green Plains Inc, Hudson Technologies Inc, Huntsman Corp, Kronos Worldwide Inc, Lanxess A.G., Lyondellbasell Industries N.V., Olin Corp, Rex American Resources Corp, Stepan Co, Solvay S.A., and Westlake Corp.

COMPARISON OF 5 YEAR CUMULATIVE TOTAL RETURN*

Among FutureFuel Corp, the Russell 2000 Index,
SIC Code 2860 and Peer Group



*\$100 invested on 12/31/19 in stock or index, including reinvestment of dividends.
Fiscal year ending December 31.

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Unregistered Sales of Equity Securities

We did not sell any of our securities within the period covered by this report in transactions that were not registered under the Securities Act.

Purchase of Securities by Us

During 2024, neither we, nor anyone acting on our behalf, purchased any shares of our common stock, which is the only class of our equity securities that is registered pursuant to Section 12 of the Exchange Act. On March 12, 2024, the Company's board of directors authorized the repurchase of up to \$25.0 million of Company common stock through a stock repurchase program expiring March 12, 2026. The program could be suspended or discontinued at any time, based on market, economic, or business conditions. The timing and amount of repurchase transactions will be determined by management based on its evaluation of market conditions, share price, and other factors.

Item 6. [Reserved].

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

The following Management's Discussion and Analysis of Financial Condition and Results of Operations should be read together with our consolidated financial statements, including the Notes thereto, set forth herein.

This discussion contains forward-looking statements that reflect our current views with respect to future events and financial performance. Actual results may differ materially from those anticipated in these forward-looking statements. See "Forward-Looking Information" below for additional discussion regarding risks associated with forward-looking statements.

Unless otherwise stated, all dollar amounts are in thousands.

Overview

In General

Our company is managed and reported in two reporting segments: chemicals segment and biofuels segment. Within the chemicals segment are two product groups: custom chemicals and performance chemicals. The custom chemicals group is comprised of chemicals manufactured for a single customer, whereas the performance chemicals product group is comprised of chemicals manufactured for multiple customers. The biofuels segment is comprised of one product group. Management believes that the diversity of each segment strengthens the Company by better using resources and is committed to growing each segment.

Major products in the custom chemicals group include: (i) consumer products (cosmetics and personal care products, specialty polymers, and specialty products used in the fuels industry); (ii) chlorinated polyolefin adhesion promoters and antioxidant precursors for a customer; and (iii) a biocide intermediate.

Pricing for the other custom manufacturing products is negotiated directly with the customer. Some, but not all, of these products have pricing mechanisms and/or protections against raw material, energy, or conversion cost changes.

Performance chemicals consist of specialty chemicals that are manufactured to general market-determined specifications and are sold to a broad customer base. A major product line in the performance chemicals group is SSIPA/LiSIPA, a polymer modifier that aids the properties of nylon and polyesters. This group of products also includes other sulfonated monomers and hydrotropes, specialty solvents, polymer additives, and chemical intermediates, such as glycerin.

SSIPA/LiSIPA revenues are generated from a diverse customer base of nylon and polyester fiber manufacturers and other customers that produce condensation polymers. Contract sales are, in certain instances, indexed to key raw materials for inflation; otherwise, there is no pricing mechanism or specific protection against raw material or conversion cost changes.

Pricing for the other performance chemical products is established based upon competitive market conditions. Some, but not all, of these products have pricing mechanisms and/or specific protections against raw material or conversion cost changes.

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For our biofuels segment, we procure all of our own feedstock and only sell biodiesel for our own account. We have the capability to process multiple types of feedstocks including vegetable oils, animal fats, and separated food waste oils. We can receive feedstock by rail or truck, and we have substantial storage capacity to acquire feedstock at advantaged prices when market conditions permit. Our annual biodiesel production capacity is 59 million gallons per year.

There currently is uncertainty as to our production of biodiesel in the future. This uncertainty results from changes in feedstock prices relative to biodiesel prices and the lack of permanency of government mandates including the BTC, the small producer's tax credit, the CFPC (effective January 1, 2025), the renewable fuels program, and the California low carbon fuel program credits. See "Risk Factors" above as well as Note 3 to our consolidated financial statements. This uncertainty also results from government mandates that strengthen markets that we compete against including renewable diesel and electric vehicles.

While biodiesel is the principal component of the biofuels segment, we also generate revenue from the sale of petrodiesel both in blends with our biodiesel and, from time to time, with no biodiesel added. Petrodiesel and biodiesel blends are available to customers at our leased storage facility in North Little Rock, Arkansas and at our Batesville plant. In addition, we deliver blended product to a small group of customers within our region. We also sell D4 and D6 RINs from time to time. At December 31, 2024 we held 3.1 million RINs with a market value of \$1,831 and at December 31, 2023, we held 4.3 million RINs in inventory with a market value of \$6,567.

Most of our sales are FOB the Batesville plant, although some transfer points are in other states or foreign ports. Many of our chemicals are used to manufacture products that are shipped, further processed, and/or consumed throughout the world, and we are not always aware of the exact quantities of our products that are moved into foreign markets by our customers. We do track the addresses of our customers for invoicing purposes and use this address to determine whether a particular sale is within or outside the United States. Our revenue for the last three fiscal years attributable to the United States and foreign countries (based upon the billing addresses of our customers) is set forth in the following table.

Period	United States	All Foreign Countries	Total
Year ended December 31, 2024	\$ 242,685	\$ 654	\$ 243,339
Year ended December 31, 2023	\$ 367,368	\$ 882	\$ 368,250
Year ended December 31, 2022	\$ 394,671	\$ 1,343	\$ 396,014

The majority of our expenses are cost of goods sold. Cost of goods sold includes raw material costs as well as both fixed and variable conversion costs, such conversion costs being those expenses that are directly or indirectly related to the operation of our plant. Significant conversion costs include labor, benefits, energy, supplies, depreciation, and maintenance and repair. In addition to raw material and conversion costs, cost of goods sold includes environmental reserves and costs related to idle capacity. Finally, cost of goods sold includes hedging gains and losses recognized by us related to our biofuels segment. Cost of goods sold is allocated to the chemicals and biofuels business segments based on equipment and resource usage for most conversion costs and based on revenue for most other costs.

Operating costs include selling, general and administrative, and research and development expenses.

The discussion of results of operations that follows is based on revenue and expenses in total and for individual product lines and does not differentiate related party transactions.

Fiscal Year Ended December 31, 2024 Compared to Fiscal Year Ended December 31, 2023

Set forth below is a summary of certain financial information for the periods indicated.

(Dollars in thousands other than per share amounts)

	Year Ended December 31, 2024	Year Ended December 31, 2023	Dollar Change	% Change
Revenue	\$ 243,339	\$ 368,250	\$ (124,911)	(34)%
Income from operations	\$ 6,372	\$ 27,368	\$ (20,996)	(77)%
Net income	\$ 15,503	\$ 37,382	\$ (21,879)	(59)%
Earnings per common share:				
Basic	\$ 0.35	\$ 0.85	\$ (0.50)	(59)%
Diluted	\$ 0.35	\$ 0.85	\$ (0.50)	(59)%
Adjusted EBITDA	\$ 17,594	\$ 34,983	\$ (17,389)	(50)%

We use adjusted EBITDA as a key operating metric to measure both performance and liquidity. Adjusted EBITDA is a non-GAAP financial measure. Adjusted EBITDA is not a substitute for operating income, net income, or cash flow from operating activities (each as determined in accordance with GAAP) as a measure of performance or liquidity. Adjusted EBITDA has limitations as an analytical tool and should not be considered in isolation or as a substitute for analysis of results as reported under GAAP. We define adjusted EBITDA as net income before interest, income taxes, depreciation, and amortization expenses, excluding, when applicable, non-cash stock-based compensation expenses, public offering expenses, acquisition-related transaction costs, purchase accounting adjustments, losses on disposal of property and equipment, unrealized gains or losses on derivative instruments, and other non-operating income or expenses. Information relating to adjusted EBITDA is provided so that investors have the same data that we employ in assessing the overall operation and liquidity of our business. Our calculation of adjusted EBITDA may be different from similarly titled measures used by other companies; therefore, the results of our calculation are not necessarily comparable to the results of other companies.

Adjusted EBITDA allows our chief operating decision maker to assess the performance and liquidity of our business on a consolidated basis to assess the ability of our operating segments to produce operating cash flow to fund working capital needs, to fund capital expenditures and to pay dividends. In particular, our management believes that adjusted EBITDA permits a comparative assessment of our operating performance and liquidity, relative to a performance and liquidity based on GAAP results, while isolating the effects of depreciation and amortization, which may vary among our operating segments without any correlation to their underlying operating performance, and of non-cash stock-based compensation expense, which is a non-cash expense that varies widely among similar companies, and unrealized gains and losses on derivative instruments, which can cause net income to appear volatile from period to period relative to the sale of the underlying physical product.

We enter into commodity derivative instruments to protect our operations from downward movements in commodity prices and to provide greater certainty of cash flows associated with sales of our commodities. We enter into hedges, and we use mark-to-market accounting to account for these instruments. Thus, our results in any given period can be impacted, and sometimes significantly, by changes in market prices relative to our contract price along with the timing of the valuation change in the derivative instruments relative to the sale of biofuel. We include the unrealized gains and losses on the derivative instruments as an adjustment as we believe it provides a relevant indicator of the underlying performance of our business in a given period.

The following table reconciles adjusted EBITDA with net income, the most directly comparable GAAP financial measure.

(Dollars in thousands)

	Years ended December 31:	
	2024	2023
Net income	\$ 15,503	\$ 37,382
Depreciation	9,208	10,348
Non-cash stock-based compensation	359	-
Interest and dividend income	(7,656)	(9,577)
Non-cash interest expense and amortization of deferred financing costs	138	135
Loss on disposal of property and equipment	30	29
Unrealized loss (gain) on derivative instruments	1,971	(1,878)
Gain on marketable securities	-	(575)
Other income	(2,751)	(882)
Income tax provision	792	1
Adjusted EBITDA	<u>\$ 17,594</u>	<u>\$ 34,983</u>

The following table reconciles adjusted EBITDA with cash flows from operations, the most directly comparable GAAP liquidity financial measure:

(Dollars in thousands)

	Years ended December 31:	
	2024	2023
Net cash provided by operating activities	\$ 24,802	\$ 21,299
Provision for deferred income taxes	(773)	-
Interest and dividend income	(7,656)	(9,577)
Income tax provision	792	1
Changes in operating assets and liabilities, net	3,180	24,143
Other non-operating income	(2,751)	(883)
Adjusted EBITDA	<u>\$ 17,594</u>	<u>\$ 34,983</u>

Results of Operations
Consolidated

(Dollars in thousands)	2024 Compared to 2023:				2023 Compared to 2022:			
	2024	2023	Change		2023	2022	Change	
			\$	%			\$	%
Sales	\$ 243,339	\$ 368,250	\$ (124,911)	(34%)	\$ 368,250	\$ 396,014	\$ (27,764)	(7%)
Volume/product mix effect			\$ (59,546)	(16%)			\$ 45,350	11%
Price effect			\$ (65,365)	(18%)			\$ (73,114)	(18%)
Gross profit	\$ 19,644	\$ 40,979	\$ (21,335)	(52%)	\$ 40,979	\$ 28,993	\$ 11,986	41%
Operating expense	\$ 13,272	\$ 13,611	\$ (339)	(2%)	\$ 13,611	\$ 11,447	\$ 2,164	19%
Other (income) expense	\$ (9,923)	\$ (10,015)	\$ 92	1%	\$ (10,015)	\$ 3,808	\$ (13,823)	NA
Pretax income	\$ 16,295	\$ 37,383	\$ (21,088)	(56%)	\$ 37,383	\$ 13,738	\$ 23,645	172%
Income tax provision (benefit)	\$ 792	\$ 1	\$ 791	79100%	\$ 1	\$ (1,473)	\$ 1,474	NA
Net income	\$ 15,503	\$ 37,382	\$ (21,879)	(59%)	\$ 37,382	\$ 15,211	\$ 22,171	146%

2024 Compared to 2023

Consolidated sales revenue decreased 34% or \$124,911 in 2024 compared to 2023 from lower sales volumes (\$60,574) and lower prices (\$65,011) in the biofuel segment. Partially offsetting this decline was an increase in chemical segment volumes and an increase of \$5,492 in amortization of deferred revenue from the expiration of a long-term contract which is now a short-term contract.

Gross profit decreased 52% or \$21,335 in 2024 compared to 2023. This comparative decrease was (\$14,031) in the biofuel segment and (\$7,304) in the chemical segment. This reduction was inclusive of (i) reduced sales volumes of biodiesel and glycerin from extreme weather conditions in the first three months of the year; ii) downtime of both biodiesel and chemical production equipment during the last half of 2024 from delays by equipment suppliers, and iii) in the biofuel segment, the change in the unrealized activity of derivative instruments in comparison to the prior year with a loss of \$1,971 in the current year and a gain of \$1,878 in the prior year. Also contributing to this reduced margin was the change in adjustments in the carrying value of our inventory as determined utilizing the LIFO method of inventory accounting which increased gross profit \$3,028 in 2024 as compared to \$10,334 in 2023. Partially offsetting this decrease was the benefit of the amortization of deferred revenue in the chemical segment of \$5,492.

Operating expenses decreased \$339 in 2024 compared to 2023. This decrease was primarily the result of decreased research and development and legal expenses.

Other income decreased \$92 in 2024 as compared to 2023. This net decrease was due to (i) the reduction of interest income of \$1,921, (ii) the prior year gain of \$575 on the sale of marketable securities with no such gain in the current year, and (iii) separations payments made in the current year. These reductions were mostly offset by the receipt of a \$2,750 settlement in 2024 (see Note 22 of our consolidated financial statements for further details).

Income tax provision (benefit)

The income tax provision was \$792 in 2024 or an effective tax rate of 4.9% as compared to a provision in 2023 of \$1 or an effective tax rate of 0.0%.

The Company's effective tax rates for the years 2024 and 2023 reflect the positive effect of certain tax credits and incentives, the most significant of which are the BTC and the Small Agri-biodiesel Producer Tax Credit. Based on technical guidance from the Internal Revenue Service, the Company excludes the portion of the BTC not used to satisfy excise tax liabilities from income. See Note 3 to our consolidated financial statements for a discussion of the pretax earnings impact of the BTC.

The Company's effective tax rate for 2024 and 2023 includes an expense of \$8,169 or 50.1% and \$6,821 or 18.2%, respectively, from the recording of a valuation allowance against its deferred tax assets. The Company evaluates its deferred tax assets and records a valuation allowance to reduce these assets to the amount that is more likely than not to be realized. As of December 31, 2024, based on all available and allowable evidence, the Company determined that its deferred tax assets of \$41,076 are more likely than not realizable only to the extent of \$18,691, resulting in a net deferred tax liability of \$773. As of December 31, 2023, based on all available and allowable evidence, the Company determined that its deferred tax assets were more likely than not realizable only to the extent of its deferred tax liabilities and recorded the resulting valuation allowance.

The Company's unrecognized tax benefit totaled \$0 at December 31, 2024 and 2023.

2023 Compared to 2022

Consolidated sales revenue decreased 7.0% or \$27,764 in 2023 compared to 2022 primarily from lower average sales prices in the biofuel segment (\$71,198) and, to a lesser extent, in the chemical segment (\$1,916). This decrease was partially offset by higher biodiesel sales volumes in the biofuel segment (\$44,994).

Gross profit increased 41.3% or \$11,986 in 2023 compared to 2022. This comparative increase was primarily attributable to improved margins in both the biofuel and chemical segments inclusive of (i) the change in the realized activity of derivative instruments in comparison to the prior year with a gain of \$694 as compared to a loss of \$24,703 in the prior year; the prior year loss included an unfavorable impact of volatility in the NYMEX heating oil futures market of \$10,500 and (ii) the change in the unrealized activity of derivative instruments in comparison to the prior year with a gain of \$1,878 in the current year and a gain of \$343 in the prior year. Also contributing to this improved margin was the benefit from the change in adjustments in the carrying value of our inventory as determined utilizing the LIFO method of inventory accounting which increased gross profit \$10,334 in 2023 and decreased gross profit \$3,944 in 2022 (net of a liquidation of \$1,850 from exiting the pipeline business).

Operating expenses increased \$2,164 in 2023 compared to 2022. This increase was primarily the result of increased compensation expense.

Other income was \$10,015 in 2023 as compared to other expenses of \$3,808. During 2023, we exited our position in marketable securities and transferred the funds to interest earning deposits. As a result, interest and dividend income increased \$4,707 in 2023 as compared to 2022. The net realized gain on the sale of marketable securities was \$575 in 2023 as compared to an unrealized loss of \$8,546 in 2022 (see Note 7 of our consolidated financial statements for further details).

Income tax provision (benefit)

The income tax provision was \$1 in 2023 or an effective tax rate of 0.0% as compared to a benefit in 2022 of (\$1,473) or an effective tax rate of (10.7%).

The Company's effective tax rates for the years 2023 and 2022 reflect the positive effect of certain tax credits and incentives, the most significant of which are the BTC and the Small Agri-biodiesel Producer Tax Credit. Based on technical guidance from the Internal Revenue Service, the Company excludes the portion of the BTC not used to satisfy excise tax liabilities from income. See Note 3 to our consolidated financial statements for a discussion of the pretax earnings impact of the BTC.

The Company's effective tax rate for 2023 and 2022 includes an expense of \$6,821 or 18.2% and \$7,392 or 53.8%, respectively, from the recording of a valuation allowance against its deferred tax assets. The Company evaluates its deferred tax assets and records a valuation allowance to reduce these assets to the amount that is more likely than not to be realized. As of December 31, 2023, based on all available and allowable evidence, the Company determined that its deferred tax assets are more likely than not realizable only to the extent of its deferred tax liabilities and recorded the resulting valuation allowance.

The Company's unrecognized tax benefit totaled \$0 at December 31, 2023 and 2022.

Chemicals Segment

(Dollars in thousands)	2024 Compared to 2023:				2023 Compared to 2022:			
	2024	2023	Change		2023	2022	Change	
			\$	%			\$	%
Sales	\$ 80,007	\$ 79,333	\$ 674	0.8%	\$ 79,333	\$ 80,893	\$ (1,560)	(1.9%)
Volume/product mix effect			1,028	1.3%			356	0.4%
Price effect			(354)	(0.4%)			(1,916)	(2.4%)
Gross profit	\$ 22,632	\$ 29,936	\$ (7,304)	(24.4%)	\$ 29,936	\$ 25,645	\$ 4,291	16.7%

2024 Compared to 2023

Chemical sales revenue increased 1% or \$674 in 2024 compared with 2023. Sales revenue for our custom chemical product line (chemicals produced for specific customers) totaled \$69,473, an increase of 8% or \$5,187 from 2023. Included in this net increase were higher sales volumes of chemicals sold into the automotive coatings market, sales of one new product into the coatings market, and an increase of \$5,492 from the amortization of deferred revenue of a long-term contract which expired. We are working with this customer on a new long-term agreement while we continue to do business. Mostly offsetting these increases were reduced sales prices and volumes of chemicals sold in the agricultural and energy markets. Performance chemicals revenue (comprised of multi-customer products which are sold based on specification) was \$10,534 in 2024, a decrease of 30% or \$4,513 from 2023. This decrease resulted from lower sales volumes and prices of glycerin products. Sales volumes were negatively impacted by the downtime of production equipment during the last half of 2024 from delays by equipment suppliers.

Gross profit for the chemicals segment decreased 24% or \$7,304 in 2024 compared with 2023. This decrease was primarily from: (i) reduced chemical sales prices in the agricultural and energy markets, and (ii) reduced sales volumes as described above. Partially offsetting these decreases were: (i) the benefit of the amortization of deferred revenue in the chemical segment of \$5,492, and (ii) the change in the adjustment in the carrying value of our inventory as determined utilizing the LIFO method of inventory accounting. This adjustment increased gross profit \$658 in 2024 as compared to \$1,920 in 2023.

2023 Compared to 2022

Chemical sales revenue decreased 1.9% or \$1,560 in 2023 compared with 2022. Sales revenue for our custom chemical product line (chemicals produced for specific customers) totaled \$64,286, an increase of 9.4% or \$5,549 from 2022. Included in this net increase was higher sales volumes of chemical intermediates in the oil and gas industry and contractual price increases partially offset by reduced amortization of deferred revenue of \$3,081 (see Note 4 of our consolidated financial statements for further details). Performance chemicals revenue (comprised of multi-customer products which are sold based on specification) was \$15,047 in 2023, a decrease of 32.1% or \$7,109 from 2022. This decrease resulted from lower selling prices of our glycerin products partially offset by higher volumes.

Gross profit for the chemicals segment increased 16.7% or \$4,291 in 2023 compared with 2022. This improvement was primarily from the change in adjustments in the carrying value of our inventory as determined utilizing the last-in, first-out ("LIFO") method of inventory accounting which increased gross profit \$1,920 in 2023 and decreased gross profit \$1,093 in 2022. Also contributing to this increase was stronger margins and higher sales volumes in products sold into the oil and gas industry. Partially reducing these improvements was the change in the timing of deferred revenue amortization of \$3,081 and lower margins from glycerin products on reduced selling price from increased imports.

Biofuel Segment

(Dollars in thousands)	2024 Compared to 2023:				2023 Compared to 2022:			
	2024	2023	Change		2023	2022	Change	
			\$	%			\$	%
Sales	\$ 163,332	\$ 288,917	\$ (125,585)	(43.5%)	\$ 288,917	\$ 315,121	\$ (26,204)	(8.3%)
Volume/product mix effect			(60,574)	(21.0%)			44,994	14.3%
Price effect			(65,011)	(22.5%)			(71,198)	(22.6%)
Gross (loss) profit	\$ (2,988)	\$ 11,043	\$ (14,031)	NA	\$ 11,043	\$ 3,348	\$ 7,695	229.8%

2024 Compared to 2023

Biofuels sales revenue decreased 43% in 2024 compared to 2023, primarily from a 21% reduction in sales volume and a 23% reduction in the average price of fuel sold inclusive of D4 RIN prices. Production and sales volumes in 2024 were impacted by the extreme winter weather experienced in the first quarter as well as production issues, stemming from delays by equipment suppliers that created an extended service utility downtime, which impacted the third and fourth quarter.

A portion of our biodiesel sold was to two major refiners in the United States in 2024 and 2023. No assurances can be given that we will continue to sell to such major refiners, or, if we do sell, the volume we will sell or the profit margin we will realize. We do not believe that the loss of this customer would have a material adverse effect on our biofuels segment or on us as a whole in that: (i) unlike our custom manufacturing products, biodiesel is a commodity with a large potential customer base; (ii) we believe that we could readily sell our biodiesel to other customers as potential demand from other customers for biodiesel exceeds our production capacity; (iii) our sales to this customer are not under fixed terms and the customer has no fixed obligation to purchase any minimum quantities except as stipulated by short term purchase orders; and (iv) the prices we receive from this customer are based upon then-market rates, as would be the case with sales of this commodity to other customers.

Biofuels gross profit decreased \$14,031 in 2024 compared to 2023. This decrease primarily resulted from reduced sales volumes, primarily stemming from: (i) extreme winter weather in the first quarter of 2024, (ii) delays by equipment suppliers that created an extended service utility downtime, which prevented us from building the biodiesel inventories we would typically have available to sell in the last half of 2024, and (iii) the change in the unrealized activity of derivative instruments in comparison to the prior year with a loss of \$1,971 in the current year and a gain of \$1,878 in the prior year. Also reducing gross profit was the change in the adjustment in the carrying value of our inventory as determined utilizing the LIFO method of inventory accounting. This adjustment increased gross profit \$2,370 in 2024 as compared to an increase in gross profit of \$8,414 in 2023.

2023 Compared to 2022

Biofuels sales revenue decreased 8.3% or \$26,204 in 2023 compared to 2022, primarily from decreased selling prices of biodiesel and biodiesel blends, inclusive of a decline in separated RIN sale prices. RIN prices declined during 2023 as production levels exceeded the renewable volume obligations set by the EPA.

A portion of our biodiesel sold was to two major refiners in the United States in 2023 and 2022. No assurances can be given that we will continue to sell to such major refiners, or, if we do sell, the volume we will sell or the profit margin we will realize. We do not believe that the loss of this customer would have a material adverse effect on our biofuels segment or on us as a whole in that: (i) unlike our custom manufacturing products, biodiesel is a commodity with a large potential customer base; (ii) we believe that we could readily sell our biodiesel to other customers as potential demand from other customers for biodiesel exceeds our production capacity; (iii) our sales to this customer are not under fixed terms and the customer has no fixed obligation to purchase any minimum quantities except as stipulated by short term purchase orders; and (iv) the prices we receive from this customer are based upon then-market rates, as would be the case with sales of this commodity to other customers.

Biofuels gross profit increased \$7,695 in 2023 compared to 2022. Gross profit primarily increased from the prior year from: (i) the change in the realized activity of derivative instruments in comparison to the prior year with a gain of \$694 as compared to a loss of \$24,360 in the prior year; the prior year was unfavorably impacted by the volatility in the NYMEX heating oil futures market which generated realized losses of \$10,500 and (ii) the change in the unrealized activity of derivative instruments in comparison to the prior year with a gain of \$1,878 in the current year and a gain of \$343 in the prior year. Also improving gross profit was the change in adjustments in the carrying value of our inventory as determined utilizing the LIFO method of inventory accounting increased gross profit \$8,414 in 2023 as compared to a decrease in gross profit of \$5,794 in 2022. In 2022, the liquidation effect of exiting the pipeline business increased gross profit \$1,851 in 2022; no such liquidation occurred in 2023.

Critical Accounting Policies and Estimates

Useful Lives of Property, Plant, and Equipment

We primarily base our estimate of an asset's useful life on our experience with other similar assets. The actual useful life of an asset may differ significantly from our estimate for such reasons as the asset's build quality, the manner in which the asset is used, or changes in the business climate. We monitor the estimated useful lives of our assets. Depreciation is provided for using the straight-line method over the associated asset's estimated useful lives.

Revenue Recognition

We recognize revenue in accordance with Accounting Standards Codification ("ASC") Topic 606, *Revenue from Contracts with Customers*, when performance obligations of the customer contract are satisfied. We sell to customers through master sales agreements or standalone purchase orders. The majority of our revenue is from short-term contracts with revenue recognized when a single performance obligation to transfer product under the terms of a contract with a customer is satisfied. Accordingly, we recognize revenue when control is transferred to the customer, which is when products are considered to meet customer specification per the customer contract and title and risk of loss are transferred. This typically occurs at the time of shipment or delivery; or for certain contracts, this occurs upon delivery of the material to one of our storage locations, ready for customer pickup and separated from our other inventory. Revenue is measured as the amount of consideration we expect to receive in exchange for transferring products and is generally based upon a negotiated price. We sell products directly to customers generally under agreements with payment terms of 30 to 75 days for chemical segment customers and 5 to 10 days for biofuels segment customers.

Certain long-term contracts have an upfront non-refundable payment considered a material right. The Company applies the renewal option approach in allocating the transaction price to the material right. For each of these contracts, the Company estimated the expected contractual term and expected volumes to be sold at the most likely expected sales price as a basis for allocating the transaction price to the material right. Each estimate is updated quarterly on a prospective basis. These custom chemical contracts have payment terms of 30 days. See Notes 2 and 4 of our consolidated financial statements for additional discussion.

For most product sales, revenue is recognized when product is shipped from our facilities and when control has transferred to the customer, which is in accordance with our customer contracts and the stated shipping terms. Nearly all custom manufactured products are manufactured under written master service agreements. Performance chemicals and biodiesel are generally sold pursuant to the terms of written purchase orders. In general, customers do not have any rights of return, except for quality disputes. All of our products are tested for quality before shipment, and historically returns have been inconsequential. We do not offer rebates, except those related to the BTC when transactions are occurring when the BTC is not in effect. See Note 3 of our consolidated financial statements for additional discussion on the BTC.

Biodiesel selling prices can at times fluctuate based on the timing of unsold, internally generated RINs. From time to time, sales of biodiesel are on a "RINs-free" basis. Such method of selling results in applicable RINs being held. The value of RINs is not reflected in revenue until such time as the RINs sale has been completed with the transfer of the RINs.

Revenue from bill-and-hold transactions in which a performance obligation exists is recognized when the total performance obligation has been met and control of the product has transferred. Bill-and-hold transactions for 2024 and 2023 were related to custom chemicals customers whereby revenue was recognized in accordance with contractual agreements based upon product being produced and ready for use by the customer. These sales were subject to written monthly purchase orders with agreement that production was reasonable. The product was custom manufactured and stored at the customer's request and could not be sold to another buyer. Credit and payment terms for bill-and-hold customers are similar to other custom chemicals customers. Sales revenue under bill-and-hold arrangements were \$43,959, \$43,766, and \$36,805 for the years ended December 31, 2024, 2023 and 2022, respectively. At December 31, 2024 and 2023, \$7,301 and \$4,317, respectively, was included in revenue for products that had not shipped. The latter amounts do not include Contract Assets of \$29 and \$734 that have not been billed nor shipped at December 31, 2024 and 2023, respectively.

Taxes collected from customers and remitted to governmental authorities are recorded on a net basis within cost of goods sold. Shipping and handling fees related to sales transactions were billed to customers and recorded as sales revenue.

Income Taxes

The provision for (benefit from) income taxes is determined using the asset and liability approach of accounting for income taxes. Under this approach, deferred taxes represent the future tax consequences expected to occur when the reported amounts of assets and liabilities are recovered or paid. The provision for (benefit from) income taxes represent income taxes paid or payable for the current year plus the change in deferred taxes during the year. Deferred taxes result from differences between the financial and tax bases of the Company's assets and liabilities and are adjusted for changes in tax rates and tax laws when changes are enacted.

A tax valuation allowance is recognized if it is more likely than not that some portion or all of the deferred tax assets will not be realized. In assessing the recoverability of its deferred tax assets, the Company evaluates available positive and negative evidence to estimate whether it is more likely than not that sufficient future taxable income will be generated to permit use of the existing deferred tax assets in each taxing jurisdiction. In making this determination, the Company considers positive evidence in the form of projections of future taxable income, reversing temporary differences, and tax planning strategies. In years in which the Company has experienced objective negative evidence in the form of three cumulative years of tax losses, the Company no longer uses taxable income projections to overcome the presumption of losses and deferred tax asset valuations are computed taking into account tax planning strategies and the reversing net deferred tax liability from temporary differences as sources of income.

The Company recognizes income tax positions that meet the more likely than not threshold and accrues interest related to unrecognized income tax positions which is recorded as a component of the income tax provision.

Liquidity and Capital Resources

Our net cash provided by (used in) operating activities, investing activities, and financing activities for the years ended December 31, 2024, 2023 and 2022 are set forth in the following table.

(Dollars in thousands)

	2024		2023		2022
Net cash provided by operating activities	\$ 24,802	\$	21,299	\$	52,451
Net cash (used in) provided by investing activities	\$ (14,794)	\$	33,022	\$	(3,829)
Net cash used in financing activities	\$ (119,911)	\$	(10,517)	\$	(10,503)

Operating Activities

Cash provided by operating activities increased in 2024 to \$24,802 from \$21,299 in 2023, a net increase of \$3,503. This increase was attributed to the change in (i) inventory of \$9,815, (ii) accounts receivable, including accounts receivable – related parties, of \$8,714, (iii) accrued expenses and other current liabilities of \$7,043, (iv) change in fair value of derivative instruments of \$3,849, (v) change in fair value of equity securities of \$3,117, and (vi) accounts payable, including accounts payable - related parties, of \$2,249. Partially offsetting the increase in cash from operations was the decrease of \$21,879 in net income in 2024 compared to 2023 and the change in deferred revenue of \$6,787 and other non-current liabilities of \$3,317.

Cash provided by operating activities decreased in 2023 to \$21,299 from \$52,451 in 2022, a net decrease of \$31,152. This decrease was attributed to the change in (i) accounts payable, including accounts payable - related parties, of \$27,928, (ii) fair value of equity securities of \$11,414 with the sale of marketable securities, (iii) income taxes receivable of \$7,782, and (iv) inventory of \$5,550. Partially offsetting the decrease in cash from operations was the increase of \$22,171 in net income in 2023 compared to 2022.

Investing Activities

Cash used in investing activities was \$14,794 in 2024 compared to cash provided by investing activities of \$33,022 in 2023 for a net decrease in cash of \$47,816. This decrease was primarily attributable to the sale of marketable securities in 2023 of \$37,701. In addition, increased capital expenditures decreased cash from investing activities by \$8,646.

Cash provided by investing activities was \$33,022 in 2023 compared to cash used by investing activities of \$3,829 in 2022 for a net increase in cash of \$36,851. This increase was primarily attributable to the sale of marketable securities in 2023 of \$37,701 compared to sales of marketable securities in 2022 of \$1,292. Increased capital expenditures decreased cash from investing activities by \$1,244.

Financing Activities

Cash used in financing activities increased to \$119,911 in 2024 from \$10,517 in 2023, a net increase of \$109,394 primarily from the payment of a special cash dividend of \$109,408.

Cash used in financing activities was \$10,517 in 2023, primarily from the payment of dividends of \$10,503.

Capital Expenditure Commitments

We had \$1,460 of new chemical production equipment and infrastructure capital repair projects that generated commitments as of December 31, 2024. We plan to continue to invest in capital infrastructure to increase the reliability of plant operations.

Historically, we finance capital requirements for our business with cash flows from operations and have not had the need to incur bank indebtedness to finance any of our operations during the periods discussed herein.

Credit Facility

On February 21, 2025, the Company, with FutureFuel Chemical Company as the borrower and certain of the Company's other subsidiaries as guarantors, amended and restated its credit agreement (the "Credit Agreement") originally entered into on April 16, 2015 with the lenders party thereto, Regions Bank as administrative agent and collateral agent, and PNC Bank, N.A., as syndication agent and further amended on March 30, 2020 (as amended, the "Prior Credit Agreement"). The Credit Agreement consists of a five-year revolving credit facility in a dollar amount of up to \$75,000, which includes a sublimit of \$30,000 for letters of credit and \$15,000 for swingline loans (collectively, the "Credit Facility"). The Credit Facility expires on February 21, 2030. The primary amendment from the Prior Credit Agreement was a reduction in the facility's credit limit by \$25,000.

We will be permitted to use net proceeds of any borrowings under the Credit Facility for working capital and other general corporate purposes. No borrowings were made under the Prior Credit Agreement as of December 31, 2024 and 2023. See Note 13 of the consolidated financial statements for additional information regarding our Credit Agreement.

The Credit Facility contains certain affirmative and negative covenants, including negative covenants that limit or restrict, among other things, indebtedness, liens and encumbrances, dividends, burdensome agreements, mergers and fundamental changes, assets sales, investments, transactions with affiliates, changes in fiscal years, and other matters customarily restricted in such agreements.

The interest rate floats at the following margins over SOFR or base rate based upon our leverage ratio.

Consolidated Leverage Ratio	Adjusted SOFR Rate Loans and Letter of Credit Fee	Base Rate Loans	Commitment Fee
< 1.00:1.0	1.00%	0.00%	0.15%
≥ 1.00:1.0 And < 1.50:1.0	1.25%	0.25%	0.15%
≥ 1.50:1.0 And < 2.00:1.0	1.50%	0.50%	0.20%
≥ 2.00:1.0 And < 2.50:1.0	1.75%	0.75%	0.20%
≥ 2.50:1.0	2.00%	1.00%	0.25%

Certain of our subsidiaries have entered into guarantees of payment on behalf of the Company for amounts outstanding under the Credit Facility. In addition, we and certain subsidiaries have entered into a pledge and security agreement with the lender parties to secure the obligations under the Credit Facility. Pursuant to the pledge and security agreement, we and certain of our subsidiaries have pledged certain collateral, including but not limited to, interests in intellectual property rights and certain equity interests in our subsidiaries.

We intend to fund future capital requirements for our businesses from cash flow generated by us as well as from existing cash, cash investments, and, if the need should arise, borrowings under our credit facility. We do not believe there will be a need to issue any securities to fund such capital requirements.

Dividends

In 2024, we paid regular cash dividends aggregating \$0.24 per share on our common stock with record dates and payment dates as previously discussed. The regular cash dividends declared in 2024 totaled \$10,513 to be paid in 2025. On March 12, 2024, we also declared a special cash dividend of \$2.50 per share on our common stock. This special dividend paid on April 9, 2024 amounted to \$109,408. Total cash dividends paid in 2024 were \$119,911.

In 2023, we paid regular cash dividends aggregating \$0.24 per share on our common stock with record dates and payment dates as previously discussed. The regular cash dividends declared in 2023 totaled \$10,503 to be paid in 2024.

In 2022, we paid regular cash dividends aggregating \$0.24 per share on our common stock with record dates and payment dates as previously discussed. The regular cash dividends declared in 2022 totaled \$21,006; \$10,503 paid in 2022 and \$10,503 paid in 2023.

Capital Management

As a result of positive operating results, we accumulated excess working capital. We intend to retain the remaining cash to fund infrastructure and capacity expansion at our Batesville plant or to otherwise fund our future growth. Third parties have not placed significant restrictions on our working capital management decisions.

We maintain depository accounts such as checking accounts, money market accounts, and other similar accounts at selected financial institutions. As of December 31, 2024, approximately 83% of these deposits were insured by the Federal Deposit Insurance Corporation.

Off-Balance Sheet Arrangements

We engage in two types of hedging transactions. First, we hedge our biofuels sales through the purchase and sale of futures contracts and options on futures contracts of energy commodities. This activity was captured on our consolidated balance sheets at December 31, 2024 and 2023. Second, we hedge our biofuels feedstock through the execution of purchase contracts and supply agreements with certain vendors which meet the normal purchase and normal sales exception of ASC 815 *Derivatives and Hedging*. These hedging transactions are recognized in earnings and do not qualify as a hedge accounting treatment on our consolidated balance sheets at December 31, 2024 or 2023, as they do not meet the definition of a hedge instrument as defined under GAAP. The purchase of biofuels feedstock generally involves two components: basis and price. Basis covers any refining or processing required as well as transportation. Price covers the purchases of the actual agricultural commodity. Both basis and price fluctuate over time. A supply agreement with a vendor constitutes a hedge when we have committed to a certain volume of feedstock in a future period and have fixed the basis for that volume.

Contractual Obligations

Purchase obligations include the purchase of biodiesel feedstock and various other infrastructure and capital repairs as follows:

Less than 1 year	\$	9,420
1-3 years		418
4-5 years		137
Total	\$	<u>9,975</u>

A component of other noncurrent liabilities is a reserve for asset retirement obligations and environmental contingencies of \$1,466 at December 31, 2024. We are liable for these asset retirement obligations and environmental contingencies only in certain events, primarily the closure of our Batesville, Arkansas facility. As such, we do not expect a payment related to these liabilities in the foreseeable future and therefore we have excluded this amount from the table above.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

In recent years, general economic inflation has not had a material adverse impact on our costs and, as described elsewhere herein, we have passed some contractual inflationary price increases along to our customers. However, we are subject to certain market risks as described below.

Market risk represents the potential loss arising from adverse changes in market rates and prices. Commodity price risk is inherent in the chemical and biofuels business both with respect to input (electricity, coal, raw materials, biofuel feedstocks, etc.) and output (manufactured chemicals and biofuels).

We seek to mitigate our market risks associated with the manufacturing and sale of chemicals by entering into term sale contracts that include contractual market price adjustment protections to allow changes in market prices of key raw materials to be passed on to the customer. Such price protections are not always obtained, however, so raw material price risk remains a significant risk.

In order to manage price risk caused by market fluctuations in biofuel prices, we may enter into exchange traded commodity futures and options contracts. We account for these derivative instruments in accordance with Topic 815, *Derivatives and Hedging*. Under this standard, the accounting for changes in the fair value of a derivative instrument depends upon whether it has been designated as an accounting hedging relationship and, further, on the type of hedging relationship. To qualify for designation as an accounting hedging relationship, specific criteria must be met and appropriate documentation maintained. We had no derivative instruments that qualified under these rules as designated accounting hedges in 2024 or 2023. Changes in the fair value of our derivative instruments are recognized at the end of each accounting period and recorded in the consolidated statement of operations as a component of cost of goods sold.

Our immediate recognition of derivative instrument gains and losses can cause net income to be volatile from period to period due to the timing of the change in value of the derivative instruments relative to the sale of biofuel being sold. As of December 31, 2024 and 2023, the fair values of our derivative instruments were in a liability position in the amount of \$235 and an asset position of \$1,736, respectively.

Our gross profit will be impacted by the prices we pay for raw materials and conversion costs (costs incurred in the production of chemicals and biofuels) for which we do not possess contractual market price adjustment protection. These items are principally comprised of crude corn oil and yellow grease and petrodiesel. The availability and price of these items are subject to wide fluctuations due to unpredictable factors such as weather conditions, overall economic conditions, governmental policies, commodity markets, and global supply and demand.

We prepared a sensitivity analysis of our exposure to market risk with respect to key raw materials and conversion costs for which we do not possess contractual market price adjustment protections based on average prices in 2024. We included only those raw materials and conversion costs for which a hypothetical adverse change in price would result in a 1% or greater decrease in gross profit. Assuming that the prices of the associated finished goods could not be increased and assuming no change in quantities sold, a hypothetical 10% change in the average price of the commodities listed below would result in the following change in annual gross profit.

(Dollars in thousands)

Item	Volume Requirements(a)	Units	Hypothetical Adverse Change in Price	Decrease in Gross Profit	Percentage Decrease in Gross Profit
Biodiesel feedstocks	42.4	MGAL	10%	\$ 13,403	69.4%
Methanol	7.6	MGAL	10%	\$ 810	4.2%
Electricity	104,738	MWH	10%	\$ 548	2.8%
Sodium Methylate	10.8	MLB	10%	\$ 531	2.7%
Coal	32,454	TON	10%	\$ 349	1.8%
Natural Gas	1,165,645	MCF	10%	\$ 301	1.6%

(a) Volume requirements and average price information are based upon volumes used and prices obtained for the year ended December 31, 2024. Volume requirements may differ materially from these quantities in future years as our business evolves.

We had no borrowings as of December 31, 2024 or 2023, and, as such, we were not exposed to interest rate risk for those years. Due to the relative insignificance of transactions denominated in a foreign currency, we consider our foreign currency risk to be immaterial.

Item 8. Financial Statements and Supplementary Data.

Financials.

The following sets forth our consolidated balance sheets as at December 31, 2024 and 2023 and our consolidated statements of income and comprehensive income, statements of cash flows, and statements of changes in stockholders' equity for each of the three years in the period ended December 31, 2024, together with Grant Thornton LLP's report on the year ended December 31, 2024 and RSM US LLP's report on the year ended December 31, 2023 and 2022.

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Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders
FutureFuel Corp.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheet of FutureFuel Corp. (a Delaware corporation) and subsidiaries (the "Company") as of December 31, 2024, the related consolidated statements of income and comprehensive income, changes in stockholders' equity, and cash flows for the year ended December 31, 2024, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2024, and the results of its operations and its cash flows for the year ended December 31, 2024, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2024, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"), and our report dated March 31, 2025 expressed an unqualified opinion.

Change in Accounting Principle

As discussed in Note 2 to the consolidated financial statements, the Company has elected to change its method of accounting for the presentation of supplies and parts in 2024.

Basis for opinion

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

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

Critical audit matter

The critical audit matter communicated below is a matter arising from the current period audit of the financial statements that was communicated or required to be communicated to the audit committee and that: (1) relates to accounts or disclosures that are material to the financial statements and (2) involved our especially challenging, subjective, or complex judgments. The communication of critical audit matters does not alter in any way our opinion on the financial statements, taken as a whole, and we are not, by communicating the critical audit matter below, providing a separate opinion on the critical audit matter or on the accounts or disclosures to which it relates.

Revenue recognition – Recognition of material rights consideration

As described further in Note 4 to the consolidated financial statements, certain of the Company's long-term custom chemical contracts have a material right as defined by Accounting Standards Codification Topic 606, *Revenue from Contracts with Customers*, which provides the customer an option to purchase future goods or services at a discounted price as a result of upfront non-refundable payments provided by the customers. For each of these contracts, the Company applies the renewal option approach in allocating the transaction price to the material right and transfer of the product. The Company estimates the expected life of the contract, the expected contractual volumes to be sold over that life and the most likely expected sales price in order to allocate the transaction price to the material right and transfer of the product. We identified the recognition of material rights consideration as a critical audit matter.

The principal consideration for our determination that recognition of material rights consideration is a critical audit matter is the judgment required in applying the renewal option approach, which includes estimating the significant assumptions which include: the contract length to which the material rights will be amortized and the expected contractual volumes which are used to recognize revenue from the material right consideration in the current period.

Our audit procedures related to the recognition of material rights consideration included the following, among others :

- We tested of the design and operating effectiveness of internal controls relating to the recognition of material rights consideration, including those related to the development of the significant assumptions.
- We obtained the contracts with customers containing material rights and evaluated for the proper accounting treatment.
- We evaluated the reasonableness of the selected methodology used in determining the period of time, including expected contract renewals, over which to defer and recognize the consideration allocated to the material rights.
- We evaluated the appropriateness of expected contractual volumes to be sold over the remaining contract life which included comparing the estimated volumes to customer forecasts.
- We tested the mathematical accuracy of management's calculations and the amounts recorded for the material rights in the consolidated financial statements.

/s/ GRANT THORNTON LLP

We have served as the Company's auditor since 2024.

Tulsa, Oklahoma
March 31, 2025

Report of Independent Registered Public Accounting Firm

Shareholders and the Board of Directors
FutureFuel Corp.

Opinion on the Financial Statements

We have audited the accompanying consolidated balance sheet of FutureFuel Corp. and its subsidiaries (the Company) as of December 31, 2023, the related consolidated statements of income and comprehensive income, cash flows and changes in stockholders' equity for each of the two years in the period ended December 31, 2023, and the related notes to the consolidated financial statements (collectively, the financial statements). In our opinion, the financial statements present fairly, in all material respects, the financial position of the Company as of December 31, 2023, and the results of its operations and its cash flows for each of the two years in the period ended December 31, 2023, in conformity with accounting principles generally accepted in the United States of America.

Basis for Opinion

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

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

/s/RSM US LLP

We served as the Company's auditor from 2019 to 2024.

St Louis, Missouri

March 14, 2024 (May 10, 2024, as to the effects of the restatement discussed in Note 25 of the consolidated financial statements filed on Form 10-K/A on May 10, 2024)

FutureFuel Corp.
Consolidated Balance Sheets
As of December 31, 2024 and 2023
(Dollars in thousands)

	2024	2023
Assets		
Cash and cash equivalents	\$ 109,541	\$ 219,444
Accounts receivable, inclusive of the blenders' tax credit of \$6,683 and \$11,381, and net of allowances for credit losses of \$29 and \$55, respectively	21,896	28,406
Accounts receivable – related parties	-	1
Inventory, net	20,643	25,383
Income tax receivable	53	1,940
Prepaid expenses	3,978	4,346
Prepaid expenses – related parties	-	12
Other current assets	8,675	11,014
Total current assets	<u>164,786</u>	<u>290,546</u>
Property, plant and equipment, net	78,538	72,711
Other assets	4,367	3,824
Total noncurrent assets	<u>82,905</u>	<u>76,535</u>
Total Assets	<u>\$ 247,691</u>	<u>\$ 367,081</u>
Liabilities and Stockholders' Equity		
Accounts payable, inclusive of the blenders' tax credit rebates due to customers of \$890 and \$890, respectively	\$ 10,483	\$ 22,178
Accounts payable – related parties	139	42
Deferred revenue – current	904	3,863
Dividends payable	10,699	10,503
Accrued expenses and other current liabilities	11,082	4,758
Total current liabilities	<u>33,307</u>	<u>41,344</u>
Deferred revenue – noncurrent	6,324	12,570
Noncurrent deferred income taxes	773	-
Other noncurrent liabilities	1,466	3,287
Total noncurrent liabilities	<u>8,563</u>	<u>15,857</u>
Total liabilities	<u>41,870</u>	<u>57,201</u>
Commitments and contingencies		
Preferred stock, \$0.0001 par value, 5,000,000 shares authorized, none issued and outstanding	-	-
Common stock, \$0.0001 par value, 75,000,000 shares authorized, 43,803,243 and 43,763,243 issued and outstanding as of December 31, 2024 and 2023, respectively	4	4
Additional paid in capital	205,434	282,489
Retained earnings	383	27,387
Total stockholders' equity	<u>205,821</u>	<u>309,880</u>
Total Liabilities and Stockholders' Equity	<u>\$ 247,691</u>	<u>\$ 367,081</u>

The accompanying notes are an integral part of these consolidated financial statements.

FutureFuel Corp.
Consolidated Statements of Income and Comprehensive Income
For the Years Ended December 31, 2024, 2023 and 2022
(Dollars in thousands, except per share amounts)

	2024	2023	2022
Revenue	\$ 243,339	\$ 368,228	\$ 395,555
Revenue – related parties	-	22	459
Cost of goods sold	220,860	324,311	357,182
Cost of goods sold – related parties	66	(315)	5,425
Distribution	2,590	3,099	4,240
Distribution – related parties	179	176	174
Gross profit	19,644	40,979	28,993
Selling, general, and administrative expenses			
Compensation expense	4,838	4,545	3,540
Other expense	3,809	4,052	3,881
Related party expense	632	616	611
Research and development expenses	3,993	4,398	3,415
Total operating expenses	13,272	13,611	11,447
Income from operations	6,372	27,368	17,546
Interest and dividend income	7,656	9,577	4,870
Interest expense	(138)	(138)	(128)
Gain (loss) on marketable securities	-	575	(8,546)
Other income (expense), net	2,405	1	(4)
Other income (expense)	9,923	10,015	(3,808)
Income before income taxes	16,295	37,383	13,738
Income tax provision (benefit)	792	1	(1,473)
Net income	\$ 15,503	\$ 37,382	\$ 15,211
Earnings per common share			
Basic	\$ 0.35	\$ 0.85	\$ 0.35
Diluted	\$ 0.35	\$ 0.85	\$ 0.35
Weighted average shares outstanding			
Basic	43,765,757	43,763,243	43,763,243
Diluted	43,765,757	43,764,683	43,763,489
	2024	2023	2022
Comprehensive income			
Net income	\$ 15,503	\$ 37,382	\$ 15,211
Other comprehensive income (loss) from unrealized net losses on available-for-sale debt securities	-	2	(227)
Income tax effect	-	(1)	48
Total unrealized gain (loss), net of tax	-	1	(179)
Comprehensive income	\$ 15,503	\$ 37,383	\$ 15,032

The accompanying notes are an integral part of these consolidated financial statements.

FutureFuel Corp.
Consolidated Statements of Cash Flows
For the Years Ended December 31, 2024, 2023 and 2022
(Dollars in thousands)

	2024	2023	2022
Cash flows from operating activities			
Net income	\$ 15,503	\$ 37,382	\$ 15,211
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation	9,208	10,348	10,454
Amortization of deferred financing costs	103	101	95
Provision (benefit) for deferred income taxes	773	-	(1,822)
Change in fair value of equity securities	-	(3,117)	8,297
Change in fair value of derivative instruments	1,971	(1,878)	(343)
Loss on the sale of investments	-	2,543	248
Stock based compensation	359	-	46
Loss on disposal of property, plant, and equipment	30	29	64
Noncash interest expense	35	34	33
Changes in operating assets and liabilities:			
Accounts receivable	6,510	(2,208)	3,118
Accounts receivable – related parties	1	5	52
Inventory	4,740	(4,445)	1,105
Income tax receivable	1,887	19	7,801
Prepaid expenses	368	(652)	(106)
Prepaid expenses – related party	12	-	(8)
Other assets	(146)	(935)	(144)
Accounts payable	(12,098)	(6,493)	13,790
Accounts payable – related parties	97	(7,757)	(112)
Dividends payable	186	-	-
Accrued expenses and other current liabilities	6,324	(719)	(948)
Accrued expenses and other current liabilities – related parties	-	(1)	-
Deferred revenue	(9,205)	(2,418)	(4,055)
Other noncurrent liabilities	(1,856)	1,461	(325)
Net cash provided by operating activities	24,802	21,299	52,451
Cash flows from investing activities			
Collateralization of derivative instruments	(132)	1,343	(404)
Proceeds from the sale of marketable securities	-	37,701	1,292
Proceeds from the sale of property, plant, and equipment	6	-	61
Capital expenditures	(14,668)	(6,022)	(4,778)
Net cash (used in) provided by investing activities	(14,794)	33,022	(3,829)
Cash flows from financing activities			
Deferred financing costs	-	(14)	-
Payment of dividends	(119,911)	(10,503)	(10,503)
Net cash used in financing activities	(119,911)	(10,517)	(10,503)
Net change in cash and cash equivalents	(109,903)	43,804	38,119
Cash and cash equivalents at beginning of period	219,444	175,640	137,521
Cash and cash equivalents at end of period	\$ 109,541	\$ 219,444	\$ 175,640
Cash paid for interest	\$ -	\$ -	\$ 3
Cash paid for income taxes	\$ 457	\$ 20	\$ 69
Noncash investing and financing activities:			
Noncash capital expenditures included in accounts payable	\$ 403	\$ 333	\$ 208
Noncash operating leases	\$ -	\$ -	\$ 707
Dividends payable	\$ 10,699	\$ 10,503	\$ 10,503

The accompanying notes are an integral part of these consolidated financial statements.

FutureFuel Corp.
Consolidated Statements of Changes in Stockholders' Equity
For the Years Ended December 31, 2024, 2023 and 2022
(Dollars in thousands)

	Common Stock		Accumulated Other Comprehensive Income	Additional paid-in Capital	Retained Earnings	Total Stockholders' Equity
	Shares	Amount				
Balance - December 31, 2021	43,763,243	\$ 4	\$ 178	\$ 282,443	\$ 6,303	\$ 288,928
Cash dividends declared	-	-	-	-	(21,006)	(21,006)
Stock based compensation	-	-	-	46	-	46
Other comprehensive loss	-	-	(179)	-	-	(179)
Net Income	-	-	-	-	15,211	15,211
Balance - December 31, 2022	43,763,243	\$ 4	\$ (1)	\$ 282,489	\$ 508	\$ 283,000
Cash dividends declared	-	-	-	-	(10,503)	(10,503)
Other comprehensive loss	-	-	1	-	-	1
Net Income	-	-	-	-	37,382	37,382
Balance - December 31, 2023	43,763,243	\$ 4	\$ -	\$ 282,489	\$ 27,387	\$ 309,880
Cash dividends declared	-	-	-	(77,691)	(42,230)	(119,921)
Stock based compensation	40,000	-	-	636	(277)	359
Net Income	-	-	-	-	15,503	15,503
Balance - December 31, 2024	43,803,243	\$ 4	\$ -	\$ 205,434	\$ 383	\$ 205,821

The accompanying notes are an integral part of these consolidated financial statements.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

1. DESCRIPTION OF BUSINESS AND OPERATIONS

FutureFuel Corp. (the "Company") is a Delaware corporation with its wholly owned subsidiaries, FutureFuel Chemical Company; FutureFuel Warehouse Company, L.L.C.; and Legacy Regional Transport, L.L.C.

The Company's sole operating facility is FutureFuel Chemical Company located in Batesville, Arkansas, a manufacturer of specialty and performance chemicals and biofuels.

2. SIGNIFICANT ACCOUNTING POLICIES AND BASIS OF PRESENTATION

Financial Presentation

The consolidated financial statements of FutureFuel Corp. and subsidiaries are prepared in conformity with accounting principles generally accepted in the United States ("GAAP") and include amounts that are based upon management estimates and judgments which could differ from actual future results. Intercompany transactions and balances are eliminated in consolidation. Certain reclassifications were made to prior year amounts to conform to the 2024 presentation.

Change in Accounting Principle

As of December 31, 2024, we changed the accounting principle related to the presentation for supplies and parts held in support of maintenance and repair of plant equipment from Inventory to Other current assets. As the investment in these supplies and parts has increased given our focus on plant reliability and efficiency as well as the fact that these parts are not revenue generating assets similar to the Company's raw materials, work in process, and finished goods inventories but are instead held to support the maintenance and repair of the Company's plant equipment, we determined it preferable to present these supplies and parts held within other current assets rather than inventory, which is composed of assets that may be sold or turned into assets to be sold as part of the Company's primary business activities. The change in accounting principle was a reduction in inventory and an increase in other current assets of \$7,733 and \$7,595 at December 31, 2024 and 2023, respectively. There was no impact on any financial statement totals or key benchmarks (working capital, total assets, equity, gross profit, net income, or operating cash flows).

Cash and cash equivalents

Cash equivalents consist of highly liquid investments with original maturities of three months or less and are carried at cost, which approximates fair value. The Company places its temporary cash investments with high credit quality financial institutions. At times, bank deposits may be in excess of the Federal Deposit Insurance Corporation insurance limit, however, no loss has occurred.

Accounts receivable and allowance for credit losses

Accounts receivable are recorded at the invoiced amount and only bear interest if outstanding beyond the agreed upon payment terms. The Company has established procedures to monitor credit risk and has not experienced significant credit losses in prior years. Accounts receivable have been reduced by an allowance for amounts that may be uncollectible in the future. This estimated allowance is based upon management's evaluation of historical collection experience, current and future economic and market conditions, and a review of the status of individual accounts receivable. Write-offs are recorded at the time a customer receivable is deemed uncollectible.

Customer concentrations

For the years ended December 31, 2024, 2023 and 2022, significant portions of the Company's sales were made to a relatively small number of customers. Sales to two biodiesel customers totaled 25%, 35%, and 27% of revenue in 2024, 2023, and 2022, respectively. Receivables for the significant customers at December 31, 2024 and 2023, were 13% and 0.2% of total receivables, respectively.

For the years ended December 31, 2024, 2023, and 2022, no chemical customer represented a greater than 10% of total sales revenue. However, one chemical customer had a receivable that was 20% of total receivables as of December 31, 2024.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

Inventory

Inventories are valued at the lower of cost or market or net realizable value. The Company determines the cost of raw materials, work in process, and finished goods inventories by the last-in, first-out ("LIFO") method. The cost of all other inventories is determined by the average cost method, which approximates the first-in, first-out ("FIFO") method. The Company writes-down its inventories for estimated obsolescence or unmarketable inventory equal to the difference between the carrying value of inventory and the estimated market value based upon assumptions about future demand and market conditions.

Derivative instruments

The Company records all derivative instruments at fair value. Fair value is determined by using the closing prices of the derivative instruments on the New York Mercantile Exchange at the end of an accounting period. Changes in the fair value of derivative instruments are recognized at the end of each accounting period and recorded in the consolidated statements of income and comprehensive income as a component of cost of goods sold.

In order to manage commodity price risk caused by market fluctuations in biofuel prices, future purchases of feedstock used in biodiesel production, physical feedstock, finished product inventories attributed to the process, and other petroleum products purchased or sold, the Company may enter into exchange-traded commodity futures and options contracts. The Company accounts for these derivative instruments in accordance with Accounting Standards Codification ("ASC") 815-20-25, *Derivatives and Hedging*. Under this standard, the accounting for changes in the fair value of a derivative instrument depends upon whether it has been designated as an accounting hedging relationship and, further, on the type of hedging relationship. To qualify for designation as an accounting hedging relationship, specific criteria must be met and appropriate documentation maintained. The Company had no derivative instruments that qualified under these rules as designated accounting hedges in 2024, 2023, or 2022. See Note 6 - Derivative Instruments. The Company has elected the normal purchase and normal sales exception for certain feedstock purchase contracts and supply agreements and for certain biodiesel sales contracts.

Marketable securities

Investments consist of marketable equity and debt securities stated at fair value. The debt securities are designated as available-for-sale securities at the time of purchase based upon the intended holding period. Gains and losses from the sale of marketable securities and the changes in the fair value of equity securities are recognized as gain (loss) on marketable securities as a component of other income (expense) in the consolidated statements of income and comprehensive income. The cost basis used for all marketable securities is specific identification. Changes in the fair value of debt securities are recognized in accumulated other comprehensive income on the consolidated balance sheets, unless the Company determines that an unrealized loss will not be recovered before it is sold, in which case, the Company will recognize the loss as a component of other income (expense).

See Notes 7 and 8 for further information on marketable securities and fair value measurements.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

Fair value measurements

The Company records recurring and non-recurring financial assets and liabilities as well as all non-financial assets and liabilities subject to fair value measurement at the price that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. These fair value principles prioritize valuation inputs across three broad levels. Level 1 inputs are quoted prices (unadjusted) in active markets for identical assets or liabilities. Level 2 inputs are quoted prices for similar assets and liabilities in active markets or inputs that are observable for the asset or liability, either directly or indirectly through market corroboration, for substantially the full term of the financial instrument. Level 3 inputs are unobservable inputs based on the Company's assumptions used to measure assets and liabilities at fair value. An asset or liability's classification within the various levels is determined based on the lowest level input that is significant to the fair value measurement.

Supplies and parts

Supplies and parts are carried at cost in Other current assets and Other assets. The Company writes-down its supplies and parts for estimated obsolescence and amounts determined to be in excess of expected needs.

Property, plant, and equipment, net

Property, plant, and equipment, net is carried at cost less accumulated depreciation. Maintenance and repairs are charged to earnings; replacements and betterments are capitalized. When the Company retires or otherwise disposes of an asset, it removes the cost of such asset and related accumulated depreciation from the accounts. The Company records any profit and loss on retirement or other disposition in earnings.

Depreciation expense is calculated based on historical cost and the estimated useful lives of the assets, generally using the straight-line method with the following useful lives:

Building & building equipment (years)	20 – 39
Machinery and equipment (years)	3 – 33
Transportation equipment (years)	5 – 33
Other (years)	5 – 33

Impairment of assets

The Company evaluates the carrying value of long-lived tangible assets when events or changes in circumstances indicate that the carrying value may not be recoverable. Such events and circumstances include, but are not limited to, significant decreases in the market value of the asset, adverse changes in the extent or manner in which the asset is being used, significant changes in business climate, or current or projected cash flow losses associated with the use of the assets. The carrying value of a long-lived asset is considered impaired when the total projected undiscounted cash flows from such assets are separately identifiable and are less than its carrying value. In that event, a loss is recognized based on the amount by which the carrying value exceeds the fair value of the long-lived asset. For long-lived assets to be held for use in future operations, fair value is determined primarily using either the projected cash flows discounted at a rate commensurate with the risk involved or an appraisal. For long-lived assets to be disposed of by sale or other than sale, fair value is determined in a similar manner, except those fair values are reduced for disposal costs.

**Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)**

Asset retirement obligations and environmental costs

The Company establishes reserves for closure/post-closure costs associated with the environmental and other assets it maintains, which include, but are not limited to, waste management units, such as a chemical waste destructor, storage tanks, and boilers. When these types of assets are constructed or installed, a liability is established with a corresponding asset for the future costs anticipated to be associated with the closure of the site based on an expected life of the environmental assets, the applicable regulatory closure requirements, and the Company's environmental policies and practices. These expenses are charged into earnings over the estimated useful life of the assets. Currently, the Company estimates the useful life of each individual asset up to 27 years. Changes made in estimates of the asset retirement obligation costs or the estimate of the useful lives of these assets are reflected in earnings as an increase or decrease in the period such changes are made.

Environmental costs are capitalized if they extend the life of the related property, increase its capacity, and/or mitigate or prevent future contamination. The cost of operating and maintaining environmental control facilities is charged to expense.

Leases

Leases with an initial expected term of twelve months or less are considered short-term and are not recorded on our consolidated balance sheets. The Company recognizes operating lease expense on a straight-line basis over the lease term.

Litigation

The Company and its operations from time to time may be parties to or targets of lawsuits, claims, investigations, and proceedings including product liability, personal injury, patent and intellectual property, commercial, contract, environmental, health and safety, and environmental matters, which are handled and defended in the ordinary course of business. The Company accrues a liability for such matters when it is probable that a liability has been incurred and the amount can be reasonably estimated. When a single amount cannot be reasonably estimated but the cost can be estimated within a range, the Company accrues the minimum amount.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

Revenue recognition

In accordance with ASC Topic 606, *Revenue from Contracts with Customers*, the Company recognizes revenue when performance obligations of the customer contract are satisfied. The Company sells to customers through master sales agreements or standalone purchase orders. The majority of the Company's revenue is from short-term contracts with revenue recognized when a single performance obligation to transfer product under the terms of a contract with a customer is satisfied. Accordingly, the Company recognizes revenue when control is transferred to the customer, which is when products are considered to meet customer specification per the customer contract and title and risk of loss are transferred. This typically occurs at the time of shipment or delivery; or for certain contracts, this occurs upon delivery of the material to a Company storage location, ready for customer pickup and separated from other Company inventory. Revenue is measured as the amount of consideration the Company expects to receive in exchange for transferring products and is generally based upon a negotiated price. The Company sells its products directly to customers generally under agreements with payment terms of 30 to 75 days for chemical segment customers and 2 to 10 days for biofuels segment customers.

The Company applies the practical expedient and excludes the value of unsatisfied performance obligations for (i) contracts with an original expected length of one year or less; and (ii) contracts for which the Company recognizes revenue at the amount to which the Company has the right to invoice for services performed.

Revenue within the biofuel segment includes revenue from biodiesel RINs. RINs are renewable identification numbers under the Renewable Fuel Standard ("RFS2") used to incent the use of renewable fuels domestically. RINs are generated at 1.5 RINs per gallon of biodiesel produced and sold. Revenue is recognized from RINs when transferred to the buyer in the government provided tracking system. No cost is incurred in the generation of a RIN.

Taxes collected from customers remitted to governmental authorities are excluded from revenue. Shipping and handling fees related to sales transactions are billed to customers and recorded as sales revenue.

Cost of goods sold and distribution

Cost of goods sold consists of raw and packaging materials, direct manufacturing costs, depreciation, analytical lab costs, inbound freight, purchasing, and other indirect costs necessary to manufacture products. Biodiesel cost of goods sold also includes a credit for the one dollar per gallon Blenders' Tax Credit ("BTC") for blending biodiesel with petroleum diesel when in law. The BTC was in effect during 2024, 2023, and 2022. See Note 3 for further discussion.

Distribution expense includes outbound freight costs, depreciation of distribution equipment, and other indirect costs necessary to distribute product.

Selling, general, and administrative expenses

Selling, general, and administrative expenses include personnel costs associated with sales, marketing, and administration; legal and related costs; consulting and professional service fees; advertising expenses; and other similar costs.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

Research and development expenses

Research and development expenses include direct salaries, depreciation of equipment, material expenditures, contractor fees, and other indirect costs. All costs identified as research and development costs are charged to expense when incurred.

Comprehensive income

Comprehensive income is comprised of net income and other comprehensive income (loss) ("OCI"). Comprehensive income comprises all changes in stockholders' equity from transactions and other events and circumstances from non-owner sources. The Company's OCI comprises unrealized gains and losses resulting from its investments in marketable debt securities classified as available-for-sale (see Note 7).

Unrealized gains and losses were determined using the specific identification method and are classified in OCI.

Income taxes

The income tax (benefit) provision is determined using the asset and liability approach of accounting for income taxes. Under this approach, deferred taxes represent the future tax consequences expected to occur when the reported amounts of assets and liabilities are recovered or paid. The provision for (benefit from) income taxes represent income taxes paid or payable for the current year plus the change in deferred taxes during the year. Deferred taxes result from differences between the financial and tax bases of the Company's assets and liabilities and are adjusted for changes in tax rates and tax laws when changes are enacted.

A tax valuation allowance is recognized if it is more likely than not that some portion or all of the deferred tax assets will not be realized. In assessing the recoverability of its deferred tax assets, the Company evaluates available positive and negative evidence to estimate whether it is more likely than not that sufficient future taxable income will be generated to permit use of the existing deferred tax assets in each taxing jurisdiction. In making this determination, the Company considers positive evidence in the form of projections of future taxable income, reversing temporary differences, and tax planning strategies. In years in which the Company has experienced objective negative evidence in the form of three cumulative years of tax losses, the Company no longer uses taxable income projections to overcome the presumption of losses and deferred tax asset valuations are computed using only the reversing net deferred tax liability from temporary differences as a source of income.

Issued accounting standards not yet adopted

Accounting Standards Update ("ASU") No. 2023-09 Income Taxes (Topic 740): Improvements to Income Tax Disclosures: The Financial Accounting Standards Board ("FASB") issued this update in December 2023 which aims to address requests for improved income tax disclosures from investors that use the financial statements to make capital allocation decisions. The amendments in this ASU address the investor requests for more transparency of income tax information and apply to all entities that are subject to income taxes. The ASU is effective for years beginning after December 15, 2024, but early adoption is permitted. This ASU should be applied on a prospective basis, although retrospective application is permitted. The Company will adopt the new standard effective for the year ended December 31, 2025, and does not expect the adoption to have a material impact on its financial statements and disclosures.

ASU No. 2024-03 Income Statement-Reporting Comprehensive Income-Expense Disaggregation Disclosures (Subtopic 220-40): Disaggregation of Income Statement Expenses: The FASB issued this update in November 2024 which aims to provide investors with more useful information about an entity's expenses by improving disclosures on income statement expenses. The amendments in this ASU require all public business entities to disclose disaggregated information about specific categories underlying certain income statement expense line items. The amendments in this ASU are effective for annual reporting periods beginning after December 15, 2026, and interim reporting periods beginning after December 15, 2027. Early adoption is permitted. The Company is evaluating this accounting standard and does not expect the adoption to have a material impact on its financial statements and disclosures.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

Recently adopted accounting standards

ASU No. 2023-07, Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures: The FASB issued this update in November 2023 which aims to improve disclosures about a public entity's reportable segments. These changes affect the Company's segment reporting beginning with the Annual Report for the year ended December 31, 2024, and are applied retrospectively to all prior periods presented. The amendments in this ASU require public business entities to disclose, on an annual and interim basis, significant segment expenses that are regularly provided to the chief operating decision maker and are included within each reported measure of segment profit or loss. This update does not change how an entity identifies or aggregates its reportable segments or how it applies the quantitative thresholds to determine them. The adoption of this ASU had a minimal impact on the Company's financial statements and related disclosures.

3. GOVERNMENT TAX CREDITS

The Company received the BTC which provided a one dollar per gallon tax credit to the blender of biomass-based diesel with at least 0.1% petroleum-based diesel fuel. The Company recorded this credit as a reduction to cost of goods sold as applicable sales were made.

The Further Consolidated Appropriations Act of 2020 was passed by Congress and signed into law on December 20, 2019, retroactively reinstating the BTC for 2018 and 2019 and extending it through December 31, 2022. With the passage of the Inflation Reduction Act ("IRA") in August 2022, the BTC was extended through December 31, 2024.

As part of each law from which the BTC mentioned above was reinstated, small agri-biodiesel producers with production capacity not in excess of 60 million gallons were eligible for an additional income tax credit of \$0.10 per gallon on the first 15 million gallons of agri-biodiesel sold (the "Small Agri-biodiesel Producer Tax Credit"). The Company was eligible for this credit and recognized \$1,500 for 2024, 2023, and 2022 in the same accounting period as the benefit from the BTC as described above. The benefit of this credit is recognized as a component of income tax provision (benefit).

The IRA created the clean fuel production credit ("CFPC") for qualifying transportation fuel produced after 2024 and sold on or before December 31, 2027. The CFPC consolidates and replaces several fuel related credits which expired December 31, 2024 including the BTC and the Small Agri-biodiesel Producer Tax Credit.

The CFPC is an income tax credit structured on a sliding scale so that producers become eligible for larger credits as the GHG emissions of the fuels they produce approach zero. For producers meeting the prevailing wage and registered apprenticeship requirements, the maximum credit is \$1.00 per gallon of nonaviation fuel. For producers not meeting the prevailing wage and registered apprenticeship requirements, the maximum credit is 20 cents per nonaviation fuel gallon. The Company registered for the program in June 2024 when the registration rules were issued and received approval in December 2024 as a clean fuel producer under the program.

On January 10, 2025, the IRS issued Notice 2025-10 with the purpose of providing initial guidance and solicited comment from the public with a deadline of April 10, 2025, and was to serve as an announcement of forthcoming proposed regulations and solicited public input by April 10, 2025. It did not include any reliance language and did not constitute final or binding guidance.

On January 15, 2025, the IRS issued Notice 2025-11 which provided emission rate guidance in support of Notice 2025-10.

CARES ACT – EMPLOYEE RETENTION TAX CREDIT

The Coronavirus Aid, Relief, and Economic Security Act ("CARES Act"), was enacted on March 27, 2020, to encourage eligible employers to retain employees on their payroll. The Consolidated Appropriations Act, effective January 1, 2021, broadened the eligibility of the credit. The Company applied for this credit and will recognize the benefit of the credit once reasonable assurance can be made as to the retention of the credit.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

4. REVENUE RECOGNITION

The majority of revenue is from contracts with less than one-year arrangements with revenue recognized when a single performance obligation to transfer product under the terms of a contract with a customer is satisfied.

Certain of the Company’s custom chemical contracts within the chemical segment contain a material right, as defined by ASC Topic 606, from the provision of a customer option to purchase future goods or services at a discounted price as a result of upfront payments provided by customers. Each contract also has a performance obligation to transfer products with 30-day payment terms. The Company recognizes revenue when the customer takes control of the inventory, either upon shipment or when the material is made available for pick up. If the customer is deemed to take control of the inventory prior to pick up, the Company recognizes the revenue as a bill-and-hold transaction in accordance with ASC Topic 606. The Company applies the renewal option approach in allocating the transaction price to these material rights and transfer of product. As a basis for allocating the transaction price to the material right and transfer of product, the Company estimates the expected life of the contract, the expected contractual volumes to be sold over that life, and the most likely expected sales price. Each estimate is updated quarterly on a prospective basis.

The Company leases warehouse space under a short-term lease agreement with a term of twelve months. Lease revenue recognized under this agreement was \$669 for the year ended December 31, 2024.

Contract Assets and Liabilities:

Contract assets consist of unbilled amounts resulting from revenue recognized through bill-and-hold arrangements. The contract assets for 2024 and 2023 consist of unbilled revenue from one customer and unbilled capital reimbursements from another customer and are recorded as accounts receivable in the consolidated balance sheets. Contract liabilities consist of advance payments related to material rights recorded as deferred revenue in the consolidated balance sheets. Increases to contract liabilities from cash received or due for a performance obligation of chemical segment plant expansions were \$0 and \$538 in 2024 and 2023, respectively. Contract liabilities are reduced as the Company transfers product to the customer under the renewal option approach. Revenue recognized in the chemical segment from the contract liability reductions were \$8,984 and \$2,734 in 2024 and 2023, respectively. One contract liability ended in 2024 with additional revenue recognition of \$5,492 in 2024. This contract was expected to be negotiated before the end of the year based on a letter of intent and was not renewed. The customer continues to purchase material from the Company on a short-term purchased order basis. Contract asset and liability balances are reported on the consolidated balance sheets on a contract-by-contract basis at the end of each reporting period.

The following table provides the opening and closing balances of receivables, contract assets, and contract liabilities from contracts with customers.

Contract balances

Contract Assets and Liabilities

	December 31,		
	2024	2023	2022
Trade receivables, included in accounts receivable*	\$ 14,991	\$ 15,897	\$ 16,459
Contract assets, included in accounts receivable	222	1,128	775
Contract liabilities, included in Deferred revenue - short-term	697	3,656	3,565
Contract liabilities, included in Deferred revenue - long-term	3,293	9,318	11,605

*Exclusive of the BTC of \$6,683, \$11,381, and \$8,970, respectively, and net of allowances for bad debt of \$29, \$55, and \$48, respectively, as of the dates noted.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

Transaction price allocated to the remaining performance obligations

As of December 31, 2024, approximately \$3,990 of revenue is expected to be recognized in the future from remaining performance obligations. The Company expects to recognize this revenue ratably based upon the expected sales over the expected term of its long-term contracts which range from two to six years. Approximately 17% of this revenue is expected to be recognized over the next 12 months, and 83% is expected to be recognized between one and five years. These amounts are subject to change based upon changes in the estimated contract life, estimated quantities, and most-likely expected sales price over the contract life. See Note 2 for further information.

Disaggregation of revenue - contractual and non-contractual

	Year ended December 31,		
	2024	2023	2022
Contract revenue from customers with > 1-year arrangements	\$ 21,887	\$ 37,055	\$ 33,686
Contract revenue from customer with < 1-year arrangements	221,230	330,973	362,106
Revenue from non-contractual arrangements	222	222	222
Total revenue	<u>\$ 243,339</u>	<u>\$ 368,250</u>	<u>\$ 396,014</u>

Timing of revenue

	Year ended December 31,		
	2024	2023	2022
Bill-and-hold revenue	\$ 43,959	\$ 43,766	\$ 36,805
Non-bill-and-hold revenue	199,380	324,484	359,209
Total revenue	<u>\$ 243,339</u>	<u>\$ 368,250</u>	<u>\$ 396,014</u>

Bill-and-hold transactions consisted of five specialty chemical customers in 2024 and 2023, and four in 2022, whereby revenue was recognized in accordance with contractual agreements based on product produced, readied for use and loaded into customer provided containers. These sales were subject to written monthly purchase orders with revenue recognized upon production and loading into customer provided containers. The inventory was segregated from other Company inventory as it was custom manufactured and stored at the customer's request and could not be sold to another buyer. Credit and payment terms for bill-and-hold transactions are similar to other specialty chemical customers. Sales revenue under bill-and-hold arrangements totaled \$43,959, \$43,766, and \$36,805, for the years ended December 31, 2024, 2023, and 2022, respectively. Of the bill-and-hold sales revenue recognized, \$7,301, \$4,317, and \$4,473 had not been shipped for the years ended December 31, 2024, 2023, and 2022, respectively. These balances do not include contract assets that have not been billed or shipped as described above.

The Company's revenues for the years ended December 31, 2024, 2023 and 2022 attributable to the United States and foreign countries (based upon the billing addresses of its customers) were as follows.

	Year ended December 31,		
	2024	2023	2022
United States	\$ 242,685	\$ 367,368	\$ 394,671
All Foreign Countries	654	882	1,343
Total	<u>\$ 243,339</u>	<u>\$ 368,250</u>	<u>\$ 396,014</u>

For the years ended December 31, 2024, 2023 and 2022, no revenues from a single foreign country were greater than 1% of total revenues.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

5. INVENTORY

The carrying values of inventory were as follows as of December 31:

	2024	2023
At average cost (approximates current cost)		
Finished goods	\$ 10,809	\$ 16,235
Work in process	872	611
Raw materials	15,335	17,937
	27,016	34,783
LIFO reserve	(6,373)	(9,400)
Total inventory	\$ 20,643	\$ 25,383

A LIFO liquidation of \$435 and \$2,124 occurred in the years ended December 31, 2024 and 2022, respectively. There was no liquidation in the year ended December 31, 2023.

6. DERIVATIVE INSTRUMENTS

Realized and unrealized gains and losses on derivative instruments and changes in fair value of the derivative instruments are recorded in the consolidated statements of income and comprehensive income as a component of cost of goods sold and amounted to a net loss of \$499 for the year ended December 31, 2024, a net gain of \$2,571 for the year ended December 31, 2023, and a net loss of \$24,360 for the year ended December 31, 2022.

The volumes and carrying values of the Company's derivative instruments were as follows at December 31:

	Asset/ (Liability)			
	2024		2023	
	Contract Quantity	Fair Value	Contract Quantity	Fair Value
Regulated fixed price future commitments, included in other current assets (in thousand barrels)	100	\$ (235)	354	\$ 1,736

The margin account maintained with a broker to collateralize these derivative instruments carried an account balance of \$877 and \$745 at December 31, 2024 and 2023, respectively, and is classified as other current assets in the consolidated balance sheets.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

7. MARKETABLE SECURITIES

At December 31, 2024 and 2023, the Company held no marketable equity or trust preferred (debt) securities. The previous sale of these securities was recorded as a component of net income with a gain of \$575 in the year ended December 31, 2023.

For the year ended December 31, 2022, in accordance with ASC 321, the change in the fair value of equity securities (preferred and other equity instruments) was reported as a loss on marketable securities as a component of net income in the amount of \$8,297.

In 2023 and 2022, the Company had no recategorized net gain or loss to report from accumulated other comprehensive income.

8. FAIR VALUE MEASUREMENTS

Fair value is defined as the exit price, or the amount that would be received to sell an asset or paid to transfer a liability, in an orderly transaction between market participants as of the measurement date. Fair value accounting pronouncements also include a hierarchy for inputs used in measuring fair value that maximizes the use of observable inputs and minimizes the use of unobservable inputs by requiring that the most observable inputs be used when available. Observable inputs are inputs market participants would use in valuing the asset or liability developed based on market data obtained from sources independent of the Company. Unobservable inputs are inputs that reflect the Company's assumptions about the factors market participants would use in valuing the asset or liability developed based upon the best information available in the circumstances.

Derivative instruments were fair value measurements using inputs considered as Level 1 holdings in the year ended December 31, 2024, as disclosed in Note 6. The Company had no Level 2 or Level 3 securities.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

9. PROPERTY, PLANT, AND EQUIPMENT

Property, plant, and equipment consisted of the following at December 31:

	2024	2023
Land and land improvements	\$ 5,967	\$ 6,044
Buildings and building equipment	29,031	27,182
Machinery and equipment	191,868	188,794
Construction in progress	9,625	1,809
Accumulated depreciation	(157,953)	(151,118)
Total	<u>\$ 78,538</u>	<u>\$ 72,711</u>

Depreciation expense totaled \$9,208, \$10,348, and \$10,454 for the years ended December 31, 2024, 2023 and 2022, respectively.

10. OTHER ASSETS

Other current assets primarily comprise supplies and parts which are held in support of maintenance and repair of plant equipment. The balance related to these items totaled \$7,733 and \$7,595 at December 31, 2024 and 2023, respectively.

Other assets primarily comprise supplies and parts which are not expected to be used in the twelve-month period subsequent to the consolidated balance sheet date. The balance related to these items totaled \$4,376 and \$3,409 at December 31, 2024 and 2023, respectively.

11. ACCRUED EXPENSES AND OTHER CURRENT LIABILITIES

Accrued expenses and other current liabilities consisted of the following at December 31:

	2024	2023
Refundable deposit	\$ 6,500	\$ -
Employment tax credit	1,856	-
Accrued employee liabilities	1,743	2,179
Accrued property, franchise, motor fuel and other taxes	881	1,346
Lease liability, current	-	389
Other current liabilities	102	844
Total	<u>\$ 11,082</u>	<u>\$ 4,758</u>

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

12. BORROWINGS

On February 21, 2025, the Company, with FutureFuel Chemical Company as the borrower and certain of the Company's other subsidiaries as guarantors, amended and restated its credit agreement (the "Credit Agreement") originally entered into on April 16, 2015 and amended March 30, 2020 (as amended, the "Prior Credit Agreement") and further amended on February 21, 2025 with the lender party thereto, Regions Bank as administrative agent, collateral agent, and syndication agent. The Credit Agreement consists of a five-year revolving credit facility in a dollar amount of up to \$75,000, which includes a sublimit of \$30,000 for letters of credit and \$15,000 for swingline loans (collectively, the "Credit Facility"). The Credit Facility expires on February 21, 2030. The primary amendment from the Prior Credit Agreement was a reduction in the facility's credit limit by \$25,000 and the removal of PNC Bank, N.A., as the syndication agent.

The interest rate floats at the following margins over SOFR or base rate based upon our leverage ratio.

Consolidated Leverage Ratio	Adjusted SOFR Rate Loans and Letter of Credit Fee	Base Rate Loans	Commitment Fee
< 1.00:1.0	1.00%	0.00%	0.15%
≥ 1.00:1.0 And < 1.50:1.0	1.25%	0.25%	0.15%
≥ 1.50:1.0 And < 2.00:1.0	1.50%	0.50%	0.20%
≥ 2.00:1.0 And < 2.50:1.0	1.75%	0.75%	0.20%
≥ 2.50:1.0	2.00%	1.00%	0.25%

The terms of the Credit Facility contain certain negative covenants and conditions including a maximum consolidated leverage ratio and a minimum consolidated interest coverage ratio.

There were no borrowings under the Prior Credit Agreement at December 31, 2024 or 2023.

At December 31, 2023, the Company had \$7 outstanding with a domestic financing company for computer technology under a three-year financing agreement. No balance remained at December 31, 2024.

13. ASSET RETIREMENT OBLIGATIONS AND ENVIRONMENTAL RESERVES

The Batesville plant generates hazardous and non-hazardous wastes, the treatment, storage, transportation, and disposal of which are regulated by various governmental agencies. In addition, the Batesville plant may be required to incur costs for environmental and closure and post-closure costs under the Resource Conservation and Recovery Act. The Company's liability for asset retirement obligations and environmental contingencies was \$1,466 and \$1,431 as of December 31, 2024 and 2023, respectively. These amounts are recorded in other noncurrent liabilities in the accompanying consolidated balance sheets. The accretion expense for 2024, 2023, and 2022 was \$35, \$35, and \$32, respectively. The periodic review of the asset retirement obligation calculations resulted in an addition to the reserve of \$0 in 2024, 2023, and 2022.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

14. LEASE COMMITMENTS AND PURCHASE OBLIGATIONS

The Company leased railcars under multi-year arrangements primarily for delivery of feedstock and biodiesel within its biofuels segment. The lease fees were fixed with no option to purchase and no upfront fees or residual value guarantees. All railcar leases were direct, and no subleases existed. The Company determined lease existence and classification at inception when an agreement conveyed the right to control the identified property for a period of time in exchange for consideration. These leases expired December 31, 2024. As operating leases do not provide a readily determinable implicit interest rate, the Company used an incremental borrowing rate based on information available at the commencement date in determining present value of the lease payments.

Following are supplemental income statement and cash flow information related to leases.

	Year ended December 31,					
	2024		2023		2022	
Operating lease expense	\$	534	\$	881	\$	862
Short-term lease expense	\$	6	\$	8	\$	31
Cash paid for operating leases	\$	534	\$	881	\$	862
Right of use assets obtained in exchange for lease obligations	\$	-	\$	-	\$	707
Weighted average discount rate, per annum		n/a		5.5%		5.2%

On December 31, 2024 and 2023, a right of use asset was reported as other noncurrent assets of \$0 and \$389, other current liabilities of \$0 and \$389, and other noncurrent liabilities of \$0 and \$0, respectively.

Purchase obligations

The Company has entered into contracts for the purchase of goods and services including contracts for feedstocks for biodiesel, expansion of the Company's specialty chemicals segment, and related infrastructure with less than one-year terms.

The Company holds two non-cancelable obligations for enterprise resource planning and software maintenance with payment obligations as of December 31, 2024 presented as follows.

Less than 1 year	\$	869
1-3 years		418
4-5 years		137
Total	\$	<u>1,424</u>

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

15. INCOME TAX PROVISION

The following table summarizes the income tax provision (benefit) for the years ended:

	2024	2023	2022
Income before taxes - U.S.	\$ 16,295	\$ 37,383	\$ 13,738
Income tax provision:			
Federal			
Current	-	-	290
Deferred	477	-	(1,998)
State and other			
Current	19	1	60
Deferred	296	-	175
Total	\$ 792	\$ 1	\$ (1,473)

Differences between the income tax provision (benefit) computed using the U.S. federal statutory income tax rate were as follows:

	2024	2023	2022
Amount computed using the statutory rate of 21% for 2024, 2023, and 2022	21.0%	21.0%	21.0%
Agri-biodiesel production credit	(7.3)	(3.2)	(8.6)
Federal BTC benefit	(58.2)	(32.3)	(76.2)
State BTC benefit	(8.2)	(4.4)	(7.0)
Credit for increasing research activities	(1.3)	(0.5)	(1.0)
Dividends received deduction	-	(0.1)	(1.6)
Capital loss carryforward expirations	1.9	-	-
State income taxes, net	2.4	2.3	5.1
State rate change and other deferred adjustments	1.2	(1.0)	3.6
State loss carryforward expirations	2.6	-	-
Valuation allowance for deferred tax assets	50.1	18.2	53.8
Other	0.7	-	0.2
Income tax provision (benefit)	4.9%	0.0%	(10.7)%

The income tax provision in 2024 was \$792 or an effective tax rate of 4.9% as compared to an income tax provision of \$1 or an effective tax rate of 0.0% in 2023 and an income tax benefit of \$1,473 or an effective tax rate of (10.7%) in 2022.

The Company's effective tax rates for the years 2024, 2023, and 2022 reflect the positive effect of the BTC and Small Agri-biodiesel Producer Tax Credit. Based on technical guidance from the Internal Revenue Service, the Company excludes the portion of the BTC not used to satisfy excise tax liabilities from income. Both incentives expired in December 2024.

The Company's 2022 effective tax rate reflects the negative impact to the Company's overall state income tax position of its 2021 decision to phase out its shipments on the petroleum products common carrier pipelines and the termination of these operations in 2022. This operational change shifts the Company's business among various states such that its net deferred tax liabilities will be realized at higher rates. Additionally, the Company's 2024 and 2023 state deferred tax provision reflects one-time benefits from state legislation enacted during these years which apply lower tax rates to future reversals of deferred tax liabilities.

In 2024, the Company determined that its future reversing net deferred tax liabilities would not support full realization of its existing net deferred tax asset and recorded a net deferred tax liability of \$773. In 2023 and 2022, the Company determined that its deferred tax assets are realizable only to the extent of its deferred tax liabilities and recorded a valuation allowance that reduces its net deferred tax asset to \$0.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

The significant components of deferred tax assets and liabilities were as follows as of December 31:

	2024	2023
Deferred tax assets		
Compensation	\$ 50	\$ 43
Inventory reserves	607	618
Self-insurance	78	65
Asset retirement obligation	331	316
Deferred revenue	1,631	3,693
Federal net operating loss carryforwards	21,099	15,240
State net operating loss carryforwards	3,359	2,765
Accrued expenses	767	742
Stock based compensation	129	24
Federal credit carryforwards	8,581	6,915
State credit carryforwards	676	676
Research & development costs	2,000	1,451
Derivative instruments	56	-
Capital loss and charitable contribution carryforwards	1,703	1,975
Other	9	12
Subtotal deferred tax assets	41,076	34,535
Valuation Allowance	(22,385)	(14,216)
Total deferred tax assets	18,691	20,319
Deferred tax liabilities		
Derivative instruments	-	(403)
LIFO inventory	(4,185)	(3,957)
Depreciation	(14,377)	(14,978)
Prepaid expenses	(902)	(981)
Total deferred tax liabilities	(19,464)	(20,319)
Net deferred tax liabilities	\$ (773)	\$ -

The Company's federal net operating loss carryforwards at December 31, 2024 do not expire and can be carried forward indefinitely. Utilization of these carryforwards is limited to 80% of taxable income in any given year. State net operating loss carryforwards at December 31, 2024 reflect losses generated in 2020 through 2024 and, if unused, will expire in years 2028 through 2044. Federal and state tax losses are primarily a function of the nontaxable nature of the BTC.

Federal tax credit carryforwards at December 31, 2024 include the Small Agri-biodiesel Producer Credit and Credit for Increasing Research generated in years 2019 through 2024 and expiring in 2039 through 2044. State credit carryforwards comprise Arkansas In-house Research Credits generated in 2019 through 2020 and expiring in 2028 through 2029.

Capital loss and charitable contribution carryforwards were generated in 2020 through 2024 and will expire in 2025 through 2029.

A valuation allowance is recognized if it is more likely than not that some portion or all of the deferred tax assets will not be realized. In assessing the recoverability of its deferred tax assets, the Company evaluates available positive and negative evidence to estimate whether it is more likely than not that sufficient future taxable income will be generated to permit use of the existing deferred tax assets in each taxing jurisdiction. In making this determination, the Company considers positive evidence in the form of projections of future taxable income, reversing temporary differences, and tax planning strategies. In years in which the Company has experienced objective negative evidence in the form of three cumulative years of tax losses, the Company no longer uses taxable income projections to overcome the presumption of losses and deferred tax asset valuations are computed taking into account tax planning strategies and the reversing net deferred tax liability from temporary differences as sources of income.

As of December 31, 2024, the Company determined that its deferred tax liabilities would not be sufficient to support its deferred tax assets and recorded a valuation allowance of \$22,385, resulting in a net deferred tax liability of \$773. As of December 31, 2023 and 2022, the Company recorded valuation allowances of \$14,216 and \$7,392, respectively, after determining that its total deferred tax assets are more likely than not realizable only to the extent of its deferred tax liabilities.

There are no unrecognized tax positions as of December 31, 2024, 2023, or 2022, and the Company does not anticipate any change over the next twelve months.

The Company records interest expense (income) and penalties, net, as a component of income tax (benefit) provision and had accrued interest and penalties of \$0, \$0, and (\$95) for December 31, 2024, 2023 and 2022, respectively. Liabilities for accrued interest and tax penalties on unrecognized tax benefits were \$0 at December 31, 2024 and 2023, respectively.

The Company and its subsidiaries file income tax returns in the U.S. federal jurisdiction and with various state jurisdictions. In general, the Company is subject to U.S., state, and local examinations by tax authorities from 2021 forward.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

16. EARNINGS PER SHARE

In the years ended December 31, 2024, 2023 and 2022, the Company used the treasury method in computing earnings per share as all shares with participating security holders had vested.

There were 750,000 outstanding restricted stock units ("RSUs") issued during the year ended December 31, 2024 per the employment agreement with Roeland Polet and the Company. These RSUs, and related dividends, vest in five equal installments on each anniversary of the award date, September 3, 2024. There were no other outstanding RSUs for the year ended December 31, 2024, 2023 and 2022.

Basic and diluted earnings per common share were computed as follows:

	Years ended December 31:		
	2024	2023	2022
Numerator:			
Net income	\$ 15,503	\$ 37,382	\$ 15,211
Denominator:			
Weighted average shares outstanding – basic	43,765,757	43,763,243	43,763,243
Effect of dilutive securities:			
Stock options	-	1,440	246
Weighted average shares outstanding – diluted	43,765,757	43,764,683	43,763,489
Basic earnings per share	\$ 0.35	\$ 0.85	\$ 0.35
Diluted earnings per share	\$ 0.35	\$ 0.85	\$ 0.35

Certain options to purchase the Company's common stock were not included in the computation of diluted earnings per share for the years ended December 31, 2024, 2023, and 2022 because they were anti-dilutive in the period. The weighted number of options excluded on this basis was 44,000, 40,060, and 33,754, respectively.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

17. STOCK-BASED COMPENSATION

The Board of Directors of the Company adopted an omnibus incentive plan which was approved by the shareholders of the Company at its 2017 annual shareholder meeting (the "Incentive Plan"). The purpose of the plan is to:

- Encourage ownership in the Company by key personnel whose long-term employment with or engagement by the Company or its subsidiaries is considered essential to its continued progress and, thereby, encourage recipients to act in the Company's shareholders' interests and share in its success;
- Encourage such persons to remain in the Company's employ or in the employ of its subsidiaries; and
- Provide incentives to persons who are not the Company employees to promote the Company's success.

The Incentive Plan authorizes the Company to issue stock options (including incentive stock options and nonqualified stock options), common stock awards, and stock appreciation rights. Eligible participants in the plan include: (i) members of the Company's board of directors and its executive officers; (ii) regular, active employees of the Company and any of its subsidiaries; and (iii) persons engaged by the Company or any of its subsidiaries to render services to the Company or its subsidiaries as an advisor or consultant.

Awards under the Incentive Plan are limited to shares of the Company's common stock, which may be shares acquired by the Company, including shares purchased in the open market, or authorized but un-issued shares. Awards are limited to 10% of the issued and outstanding shares of the Company's common stock in the aggregate.

The Incentive Plan became effective upon its approval by the Company's shareholders on September 7, 2017 and continues in effect for a term of ten years thereafter unless amended and extended by the Company or unless otherwise terminated.

The Company recognizes compensation expense in its financial statements for common stock-based options, stock units, and stock awards based upon the grant-date fair value over the requisite service period.

In 2024, the Company issued the following awards under the Incentive Plan:

- 750,000 restricted stock units ("RSUs") were issued in September 2024 to Roeland Polet, the Company's Chief Executive Officer, in connection with his employment agreement with the Company which vest in five equal installments on each anniversary of the award date, September 3, 2024. The RSUs were estimated at \$4,519 and will be recognized as compensation expense over the vesting period. The compensation expense recorded in 2024 was \$392. The equivalent dividends earned on the RSUs are forfeitable and recorded as a reduction in retained earnings with an increase in additional paid in capital for the dividends paid and dividends payable for those declared.
- 5,000 shares of restricted stock were awarded in December 2024 to each of the eight members of the Board of Directors for a total of 40,000 shares. The awards vested immediately and had a compensation expense of \$206.
- A total of 20,000 stock options were issued in March 2024 and August 2024 with 10,000 stock options issued to each of two new members of the Board of Directors. The options awarded have an exercise price equal to the mean between the highest and lowest quoted sales prices for the Company's common stock as of the grant date as reported by the New York Stock Exchange. All options awarded in 2024 vested immediately and expire in 2029. The Company has used the Black Scholes Merton option pricing model, which relies on certain assumptions, to estimate the fair value of the options it granted. The weighted average fair value of options granted was \$6.64 per option in 2024.

In 2023, the Company did not make any grants under the Incentive Plan.

In January 2022, the Company granted 24,000 stock options to the former Chief Executive Officer, the Chief Operating Officer at that time. In August 2022, the Company granted a total of 20,000 stock options, respectively, to two new members of the Board of Directors. The January options awarded vested immediately and expire in January 2025 per the separation agreement with the officer. Options awarded in August 2022 vested immediately and expire in August 2027. The options have an exercise price equal to the mean between the highest and lowest quoted sales prices for the Company's common stock as of the grant date as reported by the New York Stock Exchange. The Company has used the Black Scholes Merton option pricing model, which relies on certain assumptions, to estimate the fair value of the options it granted. The weighted average fair value of options granted was \$2.30 per option in 2022.

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There were no stock options exercised in 2024, 2023 or 2022.

The assumptions used in the determination of the fair value of the options granted are provided in the following table:

Assumptions	2024 Options		2023 Options		2022 Options	
Expected volatility rate	49.06	%	n/a		56.61	%
Expected dividend yield	3.69	%	n/a		3.34	%
Risk-free interest rate	4.25	%	n/a		3.20	%
Expected forfeiture rate	0.00	%	n/a		0.00	%
Expected term in years	2.3		n/a		2.3	

The volatility rate for the options granted in 2024 and 2022 were derived from the historical stock price volatility of the Company's common stock over the same time period as the expected term of each stock option award. The volatility rate is derived by a mathematical formula using the daily closing stock price data over the expected term.

The expected dividend yield is calculated using the Company's expected dividend amount at the date of the option grant over the expected term divided by the fair market value of the Company's common stock.

Forfeitures for RSU grants are recognized as they occur.

For the years ended December 31, 2024, 2023 and 2022, total share-based compensation totaled \$636, \$0, and \$46, respectively. In the years ended December 31, 2024, and 2022, this balance was recorded as an element of selling, general, and administrative expenses. For the year ended December 31, 2024, \$277 was recorded as reduction to retained earnings for the forfeitable dividends of the RSUs. As of December 31, 2024 and 2023, there was no unrecognized compensation expense related to stock options. As of December 31, 2024 and 2023, there was unrecognized compensation expense related to restricted stock units of \$4,218 and \$0, respectively.

A summary of the activity of the Company's stock options for the period beginning January 1, 2022, and ending December 31, 2024 is presented below.

	Options	Weighted Average Exercise Price
Outstanding at January 1, 2022	24,000	\$ 13.71
Granted	20,000	7.18
Exercised	-	-
Canceled, forfeited, or expired	-	-
Outstanding at December 31, 2022	44,000	10.74
Granted	-	-
Exercised	-	-
Canceled, forfeited, or expired	(10,000)	16.21
Outstanding at December 31, 2023	34,000	9.13
Granted	20,000	6.64
Exercised	-	-
Canceled, forfeited, or expired	(10,000)	12.07
Outstanding at December 31, 2024	44,000	7.33

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There were 3,506,324 stock units (options or awards) available for grant under the Incentive Plan. The following table provides the remaining contractual term and weighted average exercise prices of stock options outstanding and exercisable from the Incentive Plan at December 31, 2024.

Exercise Price	Options Outstanding			Options Exercisable		
	Number Outstanding at December 31, 2024	Weighted Average Remaining Contractual Life	Weighted Average Exercise Price	Number Exercisable at December 31, 2024	Weighted Average Exercise Price	
\$ 11.56	4,000	0.06	\$ 11.56	4,000	\$ 11.56	
7.18	20,000	2.61	7.18	20,000	7.18	
7.55	10,000	4.21	7.55	10,000	7.55	
5.73	10,000	4.62	5.73	10,000	5.73	
	<u>44,000</u>	<u>3.20</u>	<u>7.33</u>	<u>44,000</u>	<u>7.33</u>	

The aggregate intrinsic value of total options outstanding and exercisable was \$0 at December 31, 2024 and 2023. Intrinsic value is the amount by which the last trade price of the common stock closest to December 31, 2024 and 2023 exceeded the exercise price of the options granted.

18. STOCKHOLDERS' EQUITY

St. Albans Global Management, LLC ("St. Albans"), an entity affiliated with Mr. P. A. Novelty II, a member of the board, is entitled to demand that the Company register under the Securities Act of 1933, as amended, the resale of all shares of the Company's common stock beneficially owned by it. If St. Albans exercises its registration rights with respect to all 17,085,100 shares of the Company's common stock currently owned by it, there will be an additional 6,637,600 registered shares of common stock available for trading in the public market.

Dividends payable at December 31, 2024 was \$0.06 per common share per quarter or \$10,699.

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19. EMPLOYEE BENEFIT PLANS

Defined contribution savings plan

The Company currently offers its employees a company 401(k) matching savings plan, which covers substantially all employees. Under this plan, the Company matches the amount of eligible employees' contributions, subject to specified limits, up to 6% of earnings. Company contributions totaled \$2,080, \$1,923, and \$1,719 for the years ended December 31, 2024, 2023 and 2022, respectively.

20. RELATED PARTY TRANSACTIONS

The Company enters into transactions with companies affiliated with or controlled by a director or significant stockholder. Revenues, expenses, accounts receivable, prepaid amounts, and unpaid amounts related to these transactions are captured on the consolidated financial statements as related party line items. These related party transactions are summarized in the following table and further described below.

Related party balance sheet accounts

	2024	2023
Accounts receivable		
Biodiesel, petrodiesel, blends and other petroleum products	\$ -	\$ 1
Total accounts receivable	<u>\$ -</u>	<u>\$ 1</u>
Prepaid expenses		
Administrative services and other	\$ -	\$ 12
Total prepaid expenses	<u>\$ -</u>	<u>\$ 12</u>
Accounts payable		
Fuel purchases	\$ -	\$ -
Travel and administrative services and other	139	42
Total accounts payable	<u>\$ 139</u>	<u>\$ 42</u>

Related party income statement accounts

	Years ended December 31:		
	2024	2023	2022
Revenues			
Biodiesel, petrodiesel, blends and other petroleum products	\$ -	\$ 22	\$ 459
Total revenues	<u>\$ -</u>	<u>\$ 22</u>	<u>\$ 459</u>
Cost of goods sold			
Biodiesel, petrodiesel, blends, and other petroleum products	\$ 66	\$ -	\$ 5,425
Natural gas purchases		(315)	-
Total cost of goods sold	<u>\$ 66</u>	<u>\$ (315)</u>	<u>\$ 5,425</u>
Distribution			
Distribution and related services	\$ 179	\$ 176	\$ 174
Total distribution	<u>\$ 179</u>	<u>\$ 176</u>	<u>\$ 174</u>
Selling, general and administrative expenses			
Commodity trading advisory fees	\$ 316	\$ 308	\$ 307
Travel and administrative services	196	188	184
Income tax, consulting services and other	120	120	120
Total selling, general, and administrative expenses	<u>\$ 632</u>	<u>\$ 616</u>	<u>\$ 611</u>

**Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)**

Biodiesel, petrodiesel, blends, and other petroleum products

The Company enters into agreements to buy and sell biofuels (biodiesel, petrodiesel, biodiesel/petrodiesel blends, RINs, and biodiesel production byproducts) with an affiliate from time to time. Such agreements are priced at the then-current market price of the product as determined from bids from other customers and/or market pricing services. Cost of goods sold related to these sales includes variable costs and allocated fixed costs. The revenue amounts presented in the table above result when the Company sells biodiesel, petrodiesel, blends, and other petroleum products to a related party regardless of who the material was purchased from. Likewise, cost of goods sold amounts result when biodiesel, petrodiesel, blends, and other petroleum products are purchased from a related party regardless of who the material was sold to.

Natural gas purchases

The Company uses natural gas to generate steam for its manufacturing process and to support certain of its air and waste treatment utilities.

Distribution and related services

The Company leases oil storage capacity from an affiliate under a storage and throughput agreement. This agreement provides for the storage of biodiesel, diesel or biodiesel/petrodiesel blends, methanol, and biodiesel feedstocks in above-ground storage tankage at designated facilities of the affiliate. Expenses related to this agreement include monthly lease charges, generally on a per-barrel basis, and associated heating, throughput, and other customary terminalling charges.

Commodity trading advisory fees

The Company entered into a commodity trading advisory agreement with an affiliate. Pursuant to the terms of this agreement, the affiliate provides advice to the Company concerning the purchase, sale, exchange, conversion, and/or hedging of commodities as requested from time to time.

Travel and administrative services

The Company reimburses an affiliate for legal, trading, travel and other administrative services incurred on its behalf. Such reimbursement is performed at cost with the affiliate realizing no profit on the transaction.

Income tax and consulting services

An affiliate provides professional services to the Company, primarily in the area of income tax preparation and consulting. The Company also receives certain finance and accounting expertise from this affiliate as requested. Expenses related to these services comprise an agreed quarterly fee plus reimbursement of expense, at cost and are reported as selling, general, and administrative expenses.

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

21. SEGMENT INFORMATION

The Company has two reportable segments organized along similar product lines – chemicals and biofuels. The accounting policies of the segments are the same as those described in the summary of significant accounting policies in Note 2. The chief operating decision maker ("CODM") is Roeland Polet, the chief executive officer. The CODM reviews the significant components for each of our segments. The CODM evaluates the performance of each reportable segment and decides how to allocate resources based on segment gross profit (loss) which includes the revenue and expenses that are directly attributable to management of each segment. The CODM uses segment gross profit (loss) to assess the income generated by each reportable segment and to decide which reportable segment to reinvest profits or pay dividends. Segment gross profit (loss) is also used to analyze performance against the budget and the Company's competitors.

Chemicals

The Company's chemicals segment manufactures diversified chemical products that are sold to third party customers. This segment comprises two product groups: "custom manufacturing" (manufacturing chemicals for specific customers) and "performance chemicals" (multi-customer specialty chemicals). Included in this segment is warehouse lease rental revenue from a warehouse that was originally acquired for chemical storage.

Biofuels

The Company's biofuels segment manufactures and markets biodiesel. Biodiesel revenues are generated through the sale of biodiesel to customers through the Company's distribution network at the Batesville plant, through distribution facilities available at leased oil storage facilities, and through a network of remotely located tanks. Results of the biofuels business segment also reflect the sale of biodiesel blends with petrodiesel, petrodiesel with no biodiesel added, RINs, biodiesel production byproducts, and revenue and profits from Legacy Regional Transport.

Summary of business by segment

	For the Year Ended December 31, 2024		
	Chemical	Biofuel	Total
Revenue	\$ 80,007	\$ 163,332	\$ 243,339
Less:			
Cost of goods sold	56,627	164,299	220,926
Distribution	748	2,021	2,769
Segment gross profit (loss)	\$ 22,632	\$ (2,988)	\$ 19,644
Reconciliation of Segment gross profit (loss) to Net Income before income taxes:			
Selling, general, and administrative expenses			\$ 9,279
Research and development expenses			3,993
Other income, net			(9,923)
Net income before income taxes			\$ 16,295

	For the Year Ended December 31, 2023		
	Chemical	Biofuel	Total
Revenue	\$ 79,333	\$ 288,917	\$ 368,250
Less:			
Cost of goods sold	48,650	275,346	323,996
Distribution	747	2,528	3,275
Segment gross profit	\$ 29,936	\$ 11,043	\$ 40,979
Reconciliation of Segment gross profit (loss) to Net Income before income taxes:			
Selling, general, and administrative expenses			\$ 9,213
Research and development expenses			4,398
Other income, net			(10,015)
Net income before income taxes			\$ 37,383

Notes to Consolidated Financial Statements of FutureFuel Corp.
(Dollars in thousands, except per share amounts)

	For the Year Ended December 31, 2022		
	Chemical	Biofuel	Total
Revenue	\$ 80,893	\$ 315,121	\$ 396,014
Less:			
Cost of goods sold	54,244	308,363	362,607
Distribution	1,004	3,410	4,414
Segment gross profit	\$ 25,645	\$ 3,348	\$ 28,993
Reconciliation of Segment gross profit (loss) to Net Income before income taxes:			
Selling, general, and administrative expenses			\$ 8,032
Research and development expenses			3,415
Other expense, net			3,808
Net income before income taxes			\$ 13,738

Depreciation is allocated to segment cost of goods sold based on plant usage. Total assets and capital expenditures of the Company have not been allocated to individual segments as large portions of these assets are shared to varying degrees by each segment, causing such an allocation to be of little value.

22. LEGAL PROCEEDINGS

The Company is not a party to, nor is any of its property subject to, any material pending legal proceedings, other than ordinary routine litigation incidental to its business. However, from time to time, the Company may be a party to, or a target of, lawsuits, claims, investigations, and proceedings, including product liability, personal injury, asbestos, patent and intellectual property, commercial, contract, environmental, antitrust, health and safety, and employment matters, which the Company expects to be handled and defended in the ordinary course of business. While the Company is unable to predict the outcome of any matters currently pending, the Company does not believe that the ultimate resolution of any such pending matters will have a material adverse effect on its overall financial condition, results of operations, or cash flows. However, adverse developments could negatively impact earnings or cash flows in future periods.

During the year ended December 31, 2024, the Company resolved a prior-year legal dispute which resulted in a cash payment of \$2,750 to FutureFuel which is reflected in Other (expense) income in the Consolidated Statements of Income and Comprehensive Income in the twelve months ended December 31, 2024.

23. SUBSEQUENT EVENT

The Company evaluated subsequent events that would require an adjustment to the Company's consolidated financial statements or require disclosure in the notes to the consolidated financial statements through the date of issuance of the consolidated financial statements. Where applicable, the notes to these consolidated financial statements have been updated to discuss significant subsequent events which have occurred, except as disclosed below.

A vendor's late delivery of essential wastewater management infrastructure caused the Company in January 2025 to halt its biodiesel production to manage wastewater processing within our permit limits. Consequently, the Company decided to move up its planned turnaround, initially scheduled for later in the year, and began this process in early January 2025. Subsequently, in late February, severe inclement weather impacted the Company's ability to complete the turnaround and restart the various production processes it operates in Batesville. Biodiesel production will likely not restart until the end of March 2025 at the earliest.

On February 21, 2025, the Company, amended and restated its credit agreement as detailed in Note 12.

Item 9. Changes in and Disagreements with Accountants on Accounting and Financial Disclosure.

None.

Item 9A. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Under the supervision and with the participation of our chief executive officer and our principal financial officer and other senior management personnel, we evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rules 13a-15(e) and 15(d)-15(e) under the Exchange Act) as of the end of the period covered by this report. Based on that evaluation, our chief executive officer and our principal financial officer have concluded that these disclosure controls and procedures as of December 31, 2024 were effective to ensure that information required to be disclosed in the reports that we file or submit under the Exchange Act is recorded, processed, summarized, and reported within the time periods specified in the SEC's rules and forms.

Management's Annual Report on Internal Control Over Financial Reporting

Our management is responsible for establishing and maintaining adequate internal control over financial reporting. Our internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with GAAP.

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

Management assessed the effectiveness of our internal control over financial reporting as of December 31, 2024. In making this assessment, management used the criteria set forth by the Committee of Sponsoring Organizations of the Treadway Commission (COSO) in Internal Control-Integrated Framework (2013). Based on this assessment, management has concluded that, as of December 31, 2024, our internal control over financial reporting is effective based on those criteria.

The effectiveness of our internal control over financial reporting as of December 31, 2024 has been audited by Grant Thornton LLP, a registered public accounting firm, which expressed an unqualified opinion as stated in their report, a copy of which is included below.

Changes in Internal Control Over Financial Reporting

For the fiscal quarter ended December 31, 2024, there has been no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting. Management believes that the consolidated financial statements included in this Annual Report on Form 10-K present fairly in all material respects our consolidated financial position, results of operations and cash flows for the period presented.

Report of Independent Registered Public Accounting Firm

Board of Directors and Stockholders
FutureFuel Corp.

Opinion on the Internal Control Over Financial Reporting

We have audited the internal control over financial reporting of FutureFuel Corp. (a Delaware corporation) and subsidiaries (the "Company") as of December 31, 2024, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2024, based on criteria established in the 2013 *Internal Control—Integrated Framework* issued by COSO.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated financial statements of the Company as of and for the year ended December 31, 2024, and our report dated March 31, 2025 expressed an unqualified opinion on those financial statements.

Basis for Opinion

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

We conducted our audit in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether effective internal control over financial reporting was maintained in all material respects. Our audit included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, testing and evaluating the design and operating effectiveness of internal control based on the assessed risk, and performing such other procedures as we considered necessary in the circumstances. We believe that our audit provides a reasonable basis for our opinion.

Definition and Limitations of Internal Control Over Financial Reporting

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

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

/s/ GRANT THORNTON LLP

Tulsa, Oklahoma
March 31, 2025

Changes in Internal Control Over Financial Reporting

We did not make any changes in our internal control over financial reporting as a result of our evaluation that occurred during the fiscal quarter ended December 31, 2024.

Item 9B. Other Information.

None.

Item 9C. Disclosure Regarding Foreign Jurisdictions that Prevent Inspections.

None.

PART III

Unless otherwise stated, all dollar amounts are in thousands.

Item 10. Directors, Executive Officers, and Corporate Governance.**Identification of Directors**

Our directors are as follows:

Name	Age	Director Since	Term Expires
Donald C. Bedell, Chairman	83	2008	2025
Paul M. Manheim	76	2011	2026
Dale E. Cole	76	2015	2027
Terrance C.Z. Egger	67	2015	2025
P. A. Novelly, II	57	2022	2026
Ron J. Kruszewski	66	2022	2025
G Bruce Greer	64	2024	2027
Richard P. Rowe	64	2024	2026

There is no arrangement or understanding between any of the above directors and any other person pursuant to which such person was or is to be selected as a director.

Identification of Executive Officers

Our executive officers are as follows:

Name	Position	Age	Officer Since
Roeland Polet (a)	Chief Executive Officer	62	2024
Rose M. Sparks	Principal Financial Officer and Chief Financial Officer	58	2012
Charles W. Lyon (b)	Chief Commercial Officer	64	2021
Kyle Gaither	Chief Operations Officer	57	2023

(a) Mr. Polet was appointed Chief Executive Officer on September 3, 2024.

(b) Mr. Lyon and the Company agreed to terminate his employment as Chief Commercial Officer effective as of March 31, 2025.

There is no other arrangement or understanding between any of the above officers and any other person pursuant to which such person was or is to be selected as an officer.

Family Relationships

There are no family relationships between any of our executive officers and directors.

Business Experience

Donald C. Bedell has been a member of our board since 2008 and Vice Chairman of the board since December 2023. Mr. Bedell is chairman of the board of privately held Castle Partners and its affiliates, based in Sikeston, Missouri, which operate over 35 skilled nursing, health care, pharmaceutical, hospice, and therapy facilities throughout Missouri and other states. Mr. Bedell is a director of First Community Bank of Batesville, Arkansas and is a member of the executive committee of such bank and its holding company. He is also a director of World Point Terminals, Inc., a Delaware company based in Missouri that, through its operating subsidiaries, owns and operates petroleum storage facilities in the United States.

Our board believes that Mr. Bedell's experience, knowledge, skills, and expertise acquired as the chairman at Castle Partners, including experience and understanding of business strategy formation and execution from both a board and management perspective, add significant value to our board. Additionally, Mr. Bedell's service and experience as a director for other boards, including active involvement in strategic planning for those companies, strengthens the governance and functioning of our board.

Paul M. Manheim has served on our board since 2011. Mr. Manheim is currently a non-executive director of HAL Real Estate Inc., which develops and owns a portfolio of real estate in the Pacific Northwest consisting of multi-family, office, and mixed-use assets. He was the president and chief executive officer of HAL Real Estate Inc. until September 2005. HAL Real Estate Inc. is a subsidiary of HAL Holding N.V. Mr. Manheim joined Holland America Line, N.V., the predecessor of HAL Holding N.V., an international holding company traded on the Amsterdam Stock Exchange, in 1982 and filled various positions in the financial and corporate development areas. June 2005 to 2014, Mr. Manheim was the chairman of the board of Shanghai Red Star Optical Company, which owned a portfolio of optical retail outlets in China and was affiliated with Europe's largest optical retailer. Mr. Manheim has served as a director and chairman of the audit committee of World Point Terminals, Inc. and its predecessor since 2009. He is also a director of World Point Terminals, Inc., a Delaware company based in Missouri that, through its operating subsidiaries, owns and operates petroleum storage facilities in the United States. Mr. Manheim received a bachelor of commerce degree with honors from the University of New South Wales, Australia, and qualified as a Chartered Accountant in 1976.

Our board believes that Mr. Manheim's experience, knowledge, skills, and expertise acquired as the president and chief executive officer at HAL Real Estate Inc., including experience and understanding of business strategy formation and execution from both a board and management perspective, add significant value to our board. Additionally, Mr. Manheim's service and experience as a director for other boards, strengthens the governance and functioning of our board. Finally, Mr. Manheim's experience as the chairman of the audit committee of WPT GP, LLC and his experience as a chartered accountant add significant value to our board and the Company.

Dale E. Cole has served on our board since 2015 and is a graduate of the University of Texas at Austin with an undergraduate degree in business and finance and the Graduate School of Banking at Louisiana State University. Mr. Cole's career in banking began in 1974 with Texas Bank and Trust Company in Dallas, TX. He then worked with First National Bank in Marshall, TX, and became President of Banc Texas McKinney in McKinney, TX in 1983. In 1988, Mr. Cole became Chairman and CEO of Worthen Banking Corporation, with two banks in Batesville and Newark, AR. Mr. Cole founded First Community Bank in 1997. He currently serves as Chairman and CEO of First Community Bank and its holding company. Mr. Cole previously served on the Board of Trustees of the Barret School of Banking in Memphis, TN, the Board of Visitors of the University of Arkansas Community College in Batesville, AR, the Board of the Chamber of Commerce, Economic Development Foundation in Batesville, AR, Lyon College Advisory Counsel, and the board of White River Medical Center in Batesville, AR. Mr. Cole previously served on the board of Lyon College in Batesville. As of December 31, 2024, First Community Bank had 33 branch locations in Northeast Arkansas and Southwest Missouri and maintained assets of over \$2.9 billion.

Mr. Cole's extensive career in banking built in him a strong foundation in business, regulatory environments, and corporate governance. Having served on numerous committees throughout his career, including compensation, trust, executive, asset/liability, investment, and many others, Mr. Cole's well-rounded experience and exposure in banking and regulatory environments will strengthen the governance function of our board. Additionally, Mr. Cole's service and experience as chairman for other boards, including active involvement in strategic planning for those companies, strengthens the governance and functioning of our board and the Company.

Terrance C.Z. (Terry) Egger has served on our board since 2015. He retired as the publisher and CEO of Philadelphia Media Network, parent company of the Philadelphia Inquirer, the Philadelphia Daily News and Philly.com, that region's largest news company, in which capacity he oversaw all operations of the newspaper and its affiliates. Prior to August 2015, Mr. Egger served as president and CEO of the Cleveland 2016 Host Committee, Inc., where he led the successful effort for the City of Cleveland to host the 2016 Republican National Convention. In 2013, Mr. Egger had retired as chairman of The Plain Dealer Publishing Co. in Cleveland, parent company of The Plain Dealer, Ohio's largest newspaper, where he had served in several executive capacities from 2006. From 1996 to 2006, Mr. Egger was the president and publisher of the St. Louis Post-Dispatch, where he supervised all operations, including its website STLtoday.com and Suburban Journals of Greater St. Louis. Terry started his newspaper career managing marketing and advertising for papers in Los Angeles, California and Tucson, Arizona. Mr. Egger is a member of the Board of Directors of Medical Mutual of Ohio and a member of the Board of Trustees of the Cleveland Clinic Foundation. He has a bachelor's degree from Augustana College and a master's degree in speech communication from San Diego State University.

Our board believes that Mr. Egger's experience, knowledge, skills, and expertise, including experience and understanding of business strategy, development, supervision, operations and management add significant value to our board. Additionally, Mr. Egger's service and experience on other boards, strengthens the governance and functioning of our board and the Company.

Paul A. Novelly II has served on our board since July 2022. He serves as the Chief Executive Officer of Apex Holding Co. and its subsidiary Apex Oil Company, Inc., a privately held company based in St. Louis, Missouri, which together with its affiliates is engaged in trading, storage, marketing, and transportation of petroleum products, including the operation of liquid terminal facilities in the Midwest and Eastern United States. He has been a registered broker at Stifel, Nicolaus & Co., Inc. since 2005. Mr. Novelly II is the chief executive officer of Apex Holding Co. and the sole manager of SAGM Holdings, LLC, which is the manager of St. Albans Global Management, LLC, a family investment company. He is also the owner and president of St. Albans Construction Company, which serves the needs of the luxury custom home buyers. He also serves as a director of Apex Oil Company Charitable Foundation, since 2020, and World Point Terminals, Inc., since 2022.

Our board believes that Mr. Novelly's experience, knowledge, skills, and expertise, including experience acquired in management of various companies, and his knowledge of the Company and its business along with his extensive experience as a broker with national securities firms in evaluating public companies and their financial reports, add significant value to our board and the Company.

Ronald J. Kruszewski has served on our board since July 2022. He is Chairman of the Board and Chief Executive Officer of Stifel Financial Corp. and its principal subsidiary, Stifel, Nicolaus & Company, Incorporated. He joined the firm as Chief Executive Officer in 1997 and was named Chairman in 2001. Mr. Kruszewski is the current Chairman of the American Securities Association (ASA) and serves on the Board of Directors of the Securities Industry and Financial Markets Association (SIFMA). From 2014 through 2019, he served on the Federal Advisory Council of the St. Louis Federal Reserve Board of Directors. Additionally, he serves on the Board of Trustees for both Saint Louis University and the U.S. Ski and Snowboard Team Foundation.

Active in community affairs, Mr. Kruszewski serves as a member of the Chair's Council for Greater St. Louis Inc. He is also the past Chairman of the Board of Directors of Downtown STL, Inc. and past non-executive Chairman of the Board of Directors of Angelica Corporation. In addition, he is a member of the St. Louis Chapter of the World Presidents' Organization, and under Mr. Kruszewski's leadership, Stifel became a member of the World Economic Forum in 2023. In 2019, Mr. Kruszewski won the Horatio Alger Award and was selected for membership in the Horatio Alger Association of Distinguished Americans, which honors individuals who have overcome adversity to achieve success and who have demonstrated commitment to higher education and charitable endeavors.

Our board believes that Mr. Kruszewski's extensive managerial and leadership experience in the financial services industry in addition to a comprehensive understanding and knowledge of public companies' day-to-day operations and strategy add significant value to our board and the Company.

G. Bruce Greer has served on our board since March 2024. Mr. Greer has served as President of GBGJR Advisors, an advisory firm providing strategic advice to chemical companies, private equity firms and consulting firms, since April 2017. Mr. Greer served as Vice President of Strategic Planning and IT at Olin Corporation ("Olin") for 12 years. Prior to joining Olin, Mr. Greer spent nine years as a Vice President of Solutia, a public company spin off of The Monsanto Company, heading R&D, Commercial and Corporate Development, Strategy, M&A and running several businesses and was President of Pharma Services, and four years as a Vice President of Gemini Consulting and Services in Europe and the US, a global consulting firm with a focus on chemicals. He was a Vice President/Senior Director of Monsanto, working for the Chairman and at G D Searle. Mr. Greer was Chairman of the Board of Directors of Flexsys America L.P. Mr. Greer spent a year as a Senior Associate at Arthur Andersen LLP where his work focused on cost accounting and chemicals. He was an Assistant Professor at Northwestern University from 1988 through 1991 and served in the U.S. Navy.

Our board believes that Mr. Greer's extensive managerial and leadership experience in the chemical industry add significant value to our board and the Company.

Richard P. Rowe has served on our board since August 2024. Mr. Rowe has served as President of RPR Global Solutions, LLC, an advisory firm that provides advisory services to companies in the specialty chemicals and materials industries, since February 2022. After serving in various leadership positions for over 20 years at Arkema, S.A., a multi-national manufacturer of specialty materials and chemicals, Mr. Rowe served as President and Chief Executive Officer of Arkema Inc., a North American subsidiary of Arkema S.A., from July 2015 through November 2021, and served on the boards of various subsidiaries of Arkema S.A., such as Arkema Mexico, Arkema Canada, and Bostik Inc., and Arkema joint ventures such as Arkema-Yoshitomi (Japan), Nitta-Findley (Japan), and Seki-Arkema (Korea). Mr. Rowe chaired the Global Fluorochemical Producers Forum and served on the American Chemistry Council Board as well as its Responsible Care and Sustainability committees for more than six years. Mr. Rowe serves as Vice President of Pediatric Pharmaceuticals and also as Vice President of Club Longboat Beach & Tennis.

Our board believes that Mr. Rowe's extensive managerial and leadership experience in the chemical industry adds significant value to our board and the Company.

Roeland Polet joined the Company as our Chief Executive Officer September 2024. Mr. Polet served as the Chief Executive Officer, DSM Materials Businesses, for Koninklijke DSM N.V., a Dutch multinational corporation headquartered in Heerlen, Netherlands and publicly traded company with ordinary shares listed on the NYSE Euronext stock exchange in Amsterdam ("DSM"). He served in such role from 2019 to 2023 and also served in other senior leadership roles for DSM from 2015 to 2022, including President and Chief Executive Officer, Protective Materials, and President and Chief Executive Officer, Engineering Materials. At DSM, Mr. Polet demonstrated broad product and end-market experience with respect to chemicals and other materials and implemented significant growth, talent, operational and commercial excellence initiatives. Prior to his service at DSM, Mr. Polet served in senior leadership roles at Valspar Corporation, Celanese Corporation and Carbolite Foods, Inc. Mr. Polet has extensive global business experience including in the United States, Asia and Europe. Mr. Polet received a bachelor of arts, economics, from State University of New York at Buffalo.

Our board believes that Mr. Polet's extensive experience in the chemical industry, including his managerial and leadership experience, adds significant value to our company.

Rose M. Sparks served on our board from 2019 to July 2024. Mrs. Sparks has been our principal financial officer and treasurer and principal accounting officer since 2012 and our chief financial officer since 2013. Prior to 2013, Mrs. Sparks served as the controller of FutureFuel Chemical Company since its acquisition in 2006 and has 33 years of leadership, business, and accounting experience at the Batesville facility. Prior to our acquisition of FutureFuel Chemical Company, Mrs. Sparks worked for Eastman Chemical as controller at the Batesville plant. Mrs. Sparks graduated from Arkansas College with a BS in accounting and is a certified public accountant with inactive status.

Our board believes that Mrs. Sparks' experience, knowledge, skills, and expertise acquired as controller of FutureFuel Chemical Company, and her knowledge of our operations and business strategies gained over her years of service in that role, as well as experience as a certified public accountant, add significant value to the Company.

Charles W. Lyon has served as our chief commercial officer since 2022, but Mr. Lyon and the Company agreed to terminate his employment as chief commercial officer effective as of March 31, 2025. Mr. Lyon was previously hired as Senior Vice President of Strategy and Planning at FutureFuel Chemical Company, a wholly owned subsidiary of the Company, on September 7, 2021. Mr. Lyon leads the Company in sales, marketing, and technology and in implementing a business growth strategy for custom chemicals, specialty chemicals, and biodiesel products. Mr. Lyon is a global business executive with nearly 40 years of experience in the specialty chemicals industry and 30 years of international business experience in the industrial chemical and specialty chemical industries. He has extensive experience in establishing and growing specialty chemicals businesses, especially in the Americas and Asia Pacific regions. Mr. Lyon received a BS in Chemical Engineering (Magna Cum Laude) and a MS in Engineering Management, both from the University of Missouri in Rolla (now Missouri University of Science and Technology).

Prior to joining FutureFuel Chemical Company, Mr. Lyon was employed by Prefere Resins, where he was Business Director for the Americas and Asia. Prior to Prefere, and for fifteen years, he was Business Director, Americas and Asia, for INEOS Melamines, a unit of INEOS. Mr. Lyon also worked for UCB and Solutia, Inc. in various business leadership roles. He started his career with Monsanto Company, and held management positions in engineering, manufacturing, and global product management serving numerous specialty market segments.

Kyle Gaither was appointed as our Chief Operations Officer in February 2023. Prior to this appointment, Mr. Gaither served as General Manager since January 2018. Mr. Gaither has worked for FutureFuel Chemical Company and its predecessor, Eastman Chemical Company, and Eastman Kodak Company, for over 33 years in various leadership and engineering roles. He has spent the majority of his career in manufacturing and manufacturing support which has allowed him to gain a great working knowledge of the Company's manufacturing operations and capabilities. Mr. Gaither received a BS degree in Chemical Engineering from the University of Arkansas and holds a Professional Engineer license. Our board believes that Mr. Gaither's experience, knowledge, skills, and expertise acquired through his years of working in manufacturing for FutureFuel Chemical Company and its predecessors add significant value to the Company.

Involvement in Legal Proceedings

None of our directors or executive officers were involved within the past ten years in any matter described in Item 401(f) of Regulation S-K.

Code of Business Conduct and Ethics

We adopted a code of business conduct and ethics that applies to all of our employees and the employees of our subsidiaries, including our principal executive officer, principal financial officer, principal accounting officer or controller, or persons performing similar functions. A copy of this code of business conduct and ethics has been posted on our Internet website and may be accessed at <https://futurefuelcorporation.gcs-web.com/corporate-governance>. We will provide any person, without charge, a copy of such code of business conduct and ethics upon request to FutureFuel Corp., 8235 Forsyth Blvd., 9th Floor, Clayton, Missouri 63105, attention: Investor Relations.

Nominating/Corporate Governance Committee

Our board established a Nominating/Corporate Governance Committee and adopted a charter for such committee. A copy of this nominating/corporate governance committee charter is posted on our website and may be accessed at <http://futurefuelcorporation.gcs-web.com/corporate-governance>. The nominating/corporate governance committee charter contains procedures for Company shareholders to submit recommendations for nomination to our board. The nominating/corporate governance committee charter was attached as an exhibit to our Form 10 Registration Statement filed with the SEC on April 24, 2007 and was last updated on July 16, 2015. The current members of the Nominating/Corporate Governance Committee are as follows:

Donald C. Bedell (Chair)
Dale E. Cole
Terrance C.Z. Egger
G. Bruce Greer
Paul M. Manheim

Audit Committee

We have a separately-designated standing Audit Committee established in accordance with Section 3(a)(58)(A) of the Exchange Act, and have adopted an audit committee charter. A copy of this audit committee charter has been posted on our website and may be accessed at <http://futurefuelcorporation.gcs-web.com/corporate-governance>. The current members of the Audit Committee are as follows:

Paul M. Manheim (Chair)
Dale E. Cole
Terrance C.Z. Egger
G. Bruce Greer
Richard P. Rowe

Audit Committee Expert

Our board of directors determined that each member of our Audit Committee is an audit committee financial expert. Each such member of our Audit Committee is independent, as independence for audit committee members is defined in the listing standards applicable to us.

Insider Trading Policies

Our board adopted insider trading policies governing the purchase and sale of securities by our directors, officers, and employees and those of our subsidiaries. A copy of this insider trading policy is attached as Exhibit 19.1 to this Annual Report on Form 10-K and has also been posted on our website and may be accessed at https://futurefuel-corporation.ir.rdgfilings.com/wp-content/uploads/sites/34/2021/04/Insider_Trading_Policy.pdf.

Item 11. Executive Compensation.

General

Our board of directors has established a Compensation Committee. The Compensation Committee's responsibilities include, among other things, determining our policy on remuneration to the Company's officers and directors and the executive officers and directors of FutureFuel Chemical Company. In 2024, we paid salaries, bonuses, and other forms of compensation to the Company's officers and the officers of FutureFuel Chemical Company as described below.

With the exception of Rose M. Sparks, who serves as our principal financial officer and chief financial officer and FutureFuel Chemical Company's chief financial officer, we determined for 2024 not to pay salaries, bonuses, or other forms of cash compensation to any of our board members that serve as executive officers (in their capacities as such). Executive officer compensation will be monitored during 2025 and set or adjusted as the board deems appropriate.

Compensation Discussion and Analysis

The objectives of our compensation program are to provide a competitive compensation package that rewards sustained financial and operating performance that creates long-term value for our shareholders. Our compensation programs are intended to meet the goals of attracting and retaining qualified personnel; motivating these individuals to achieve short-term and long-term corporate goals without undue risk-taking and to promote equity among executive officer positions, while considering external competitiveness and differences in job responsibilities.

The elements of our compensation program include base salary, bonuses, certain equity awards to our CEO, and certain retirement, insurance, and other benefits generally available to all employees. In addition, in 2017, our board adopted the Incentive Plan which was approved by our shareholders at our 2017 annual meeting. The Incentive Plan provides equity-based compensation to our executive officers and our directors. Our Compensation Committee, and the Company generally, makes decisions with respect to each compensation element paid or payable to our personnel on an individual-by-individual basis and does not necessarily take into account decisions made with respect to other elements of compensation that may be paid to such individual. The overall goal of our compensation program, however, is to achieve the goals described above.

Cash Salaries and Bonuses

Mr. McKinlay resigned as Chief Executive Officer in May 2024. Prior to his resignation, Mr. McKinlay was compensated based on an annual base salary of \$400 as approved by the Compensation Committee. Upon his resignation, Mr. McKinlay was given a separation package which included his anticipated bonus for 2024 and one year's salary to be distributed in two payments with one payment in 2024 and one in 2025.

Mr. Polet was hired in August 2024 to replace Mr. McKinlay. In connection with his appointment, the Company and Mr. Polet entered into an Employment Agreement dated August 16, 2024 (the "Employment Agreement"). The Employment Agreement provides for, among other things, an annual base salary of \$500 and a target annual bonus equal to 50% his annual base salary, subject to performance conditions established from time to time by the Compensation Committee.

For the year 2024, we established a bonus pool for the employees of our subsidiary, FutureFuel Chemical Company. The total bonus target amount was determined by our chief executive officer in consultation with our other executive officers and the Compensation Committee. Eligible FutureFuel Chemical Company employees hired prior to January 1, 2024 received bonuses of approximately 99 hours of pay at their normal hourly rate. Employees hired in 2024 received a prorated or reduced amount based on their length of service. Salaried employees of FutureFuel Chemical Company (other than FutureFuel Chemical Company's lead management team) received an additional bonus amount ranging from \$0 to \$5.6. Bonuses to FutureFuel Chemical Company's managers other than the lead management team were determined by FutureFuel Chemical Company's officers. Bonuses in 2024 for Mr. Polet, Mrs. Sparks, Mr. Lyon, Mr. Gaither, and other members of lead management of FutureFuel Chemical Company were recommended by our Compensation Committee in respect of our chief executive officer and by our chief executive officer for all other executive officers, then reviewed and approved by the Compensation Committee of our Board after considering several factors, including our overall financial performance and comparative information regarding the executive pay practices of our competitors. Such bonus distributions were designed to be sufficient compensation for the services rendered, competitive with market rates for similar services, and sufficient to motivate these individuals to aid in our achievement of short-term and long-term corporate goals. Mr. Polet voluntarily took a 50% decrease in his bonus to increase the amounts payable to other employees of the Company.

Incentive Plan

Our board of directors adopted the Incentive Plan, which was approved by our shareholders at our 2017 annual shareholder meeting. The purpose of the Incentive Plan is to:

- Encourage ownership in us by key personnel whose long-term employment with or engagement by us or our subsidiaries (including FutureFuel Chemical Company) is considered essential to our continued progress and, thereby, encourage recipients to act in our shareholders' interests and share in our success;
- Encourage such persons to remain in our employ or in the employ of our subsidiaries; and
- Provide incentives to persons who are not our employees to promote our success.

The Incentive Plan authorizes us to issue stock options (including incentive stock options and non-qualified stock options), stock awards, and stock appreciation rights. As of December 31, 2024, we have issued or awarded 84,000 options to purchase shares of our common stock, 750,000 restricted stock units ("RSUs") and 40,000 shares of restricted stock, in each case under the Incentive Plan. The Employment Agreement for Mr. Polet provided for the issuance of the 750,000 RSUs to him, vesting in five equal installments on each anniversary of the award date and subject to the other terms and conditions of the Incentive Plan and an award agreement entered into by the Company and Mr. Polet. See Note 17 to our consolidated financial statements for a detailed discussion of 2023 stock-based compensation awards. Historically, the Company has not regularly issued equity awards under the Incentive Plan and therefore has not had a determined schedule for award issuance. However, the Compensation Committee did not take material nonpublic information into account when determining the timing and terms of equity awards in 2024, and the Company does not time the disclosure of material nonpublic information for the purpose of affecting the value of executive compensation.

Eligible participants in the Incentive Plan include (i) members of our board of directors and our executive officers; (ii) regular, active employees of us or of any of our subsidiaries; and (iii) persons engaged by us or by any of our subsidiaries to render services to us or our subsidiaries as an advisor or consultant.

Awards under the Incentive Plan are limited to shares of our common stock, which may be shares reacquired by us, including shares purchased in the open market, or authorized but unissued shares. Awards are limited to 10% of the issued and outstanding shares of our common stock in the aggregate, or 4,310,167 shares, as of the date of the adoption of the Incentive Plan. Taking into account the prior grants of stock options and stock awards under the Incentive Plan, 3,506,324 shares are available to be issued under the Incentive Plan as of December 31, 2024.

The Incentive Plan is administered by: (i) our board, (ii) a committee of our board appointed for that purpose; or (iii) if no such committee is appointed, our board's Compensation Committee (in any case, the "Administrator"). The Administrator may appoint agents to assist it in administering the Incentive Plan. The Administrator may delegate to one or more individuals the day-to-day administration of the Incentive Plan and any of the functions assigned to the Administrator in the Incentive Plan. Such delegation may be revoked at any time. All decisions, determinations, and interpretations by the Administrator regarding the Incentive Plan and the terms and conditions of any award granted thereunder will be final and binding on all participants.

The Incentive Plan became effective upon its approval by our shareholders and will continue in effect for a term of ten years thereafter unless amended and extended by us or unless earlier terminated. The individuals and number of persons who may be selected to participate in the plan in the future is at the discretion of the Administrator and, therefore, are not determinable at this time. Likewise, the number of stock options, stock awards and stock appreciation rights that will be granted to eligible participants pursuant to the plan are not determinable at this time.

The Administrator may grant a stock option or provide for the grant of a stock option either from time to time in the discretion of the Administrator or automatically upon the occurrence of events specified by the Administrator, including the achievement of performance goals or the satisfaction of an event or condition within the control of the participant or within the control of others. Each option agreement must contain provisions regarding (i) the number of shares of common stock that may be issued upon exercise of the option; (ii) the type of option; (iii) the exercise price of the shares and the means of payment for the shares; (iv) the term of the option; (v) such terms and conditions on the vesting or exercisability of the option as may be determined from time to time by the Administrator; (vi) restrictions on the transfer of the option and forfeiture provisions; and (vii) such further terms and conditions not inconsistent with the plan as may be determined from time to time by the Administrator. Unless otherwise specifically determined by the Administrator or otherwise set forth in the Incentive Plan, the vesting of an option will occur only while the participant is employed or rendering services to us or one of our subsidiaries, and all vesting will cease upon a participant's termination of employment for any reason.

The Administrator may grant annual performance vested options. Performance will be tied to annual cash flow targets (our consolidated income plus depreciation plus amortization) in amounts to be determined. Annual performance vested options will vest 25% for each year that the annual cash flow target is achieved (with provisions for subsequent year catch-ups). Neither our management nor our Compensation Committee, however, has through the year ended December 31, 2023 made any awards that were contingent upon the achievement of specified performance goals or that were otherwise performance-vested. Rather, through 2022, all grants were made in the discretion of our Compensation Committee based upon their authority under the Incentive Plan.

The Administrator may grant cumulative performance vested options. Performance will be tied to cumulative cash flow in amounts to be determined for periods to be determined.

The Administrator may issue other options based upon the following performance criteria either individually, alternatively, or in any combination, applied to either us as a whole or to a business unit, subsidiary, or business segment, either individually, alternatively, or in any combination, and measured either annually or cumulatively over a period of years, on an absolute basis or relative to a pre-established target, to previous years' results or to a designated comparison group, in each case as specified by the Administrator: (i) cash flow; (ii) earnings (including gross margin, earnings before interest and taxes, earnings before taxes, and net earnings); (iii) earnings per share; (iv) growth in earnings or earnings per share; (v) stock price; (vi) return on equity or average shareholders' equity; (vii) total shareholder return; (viii) return on capital; (ix) return on assets or net assets; (x) return on investment; (xi) revenue; (xii) income or net income; (xiii) operating income or net operating income; (xiv) operating profit or net operating profit; (xv) operating margin; (xvi) return on operating revenue; (xvii) market share; (xviii) overhead or other expense reduction; (xix) growth in shareholder value relative to the moving average of the S&P 500 Index or a peer group index; (xx) strategic plan development and implementation; and (xxi) any other similar criteria.

Such options will vest and expire (including on a pro rata basis) on such terms as may be determined by the Administrator from time to time consistent with the terms of the Incentive Plan.

The Administrator may award shares of our common stock to participants. The grant, issuance, retention, or vesting of each stock award may be subject to such performance criteria and level of achievement versus these criteria as the Administrator determines, which criteria may be based on financial performance, personal performance evaluations, or completion of service by the participant. Unless otherwise provided for by the Administrator, upon the participant's termination of employment other than due to death or retirement, the unvested portions of the stock award and the shares of our common stock subject thereto will generally be forfeited. Unless otherwise provided for by the Administrator, if a participant's termination of employment is due to death or retirement, all outstanding stock awards will continue to vest provided certain conditions to be determined are met. Unless otherwise provided for by the Administrator, if a participant's termination of employment is due to his death, a portion of each outstanding stock award granted to such participant will immediately vest and all forfeiture provisions and repurchase rights will lapse as to a prorated number of shares of common stock determined by dividing the number of whole months since the grant date by the number of whole months between the grant date and the date that the stock award would have fully vested.

The Administrator may grant stock appreciation rights either alone or in conjunction with other awards. The Administrator will determine the number of shares of common stock to be subject to each award of stock appreciation rights. The award of stock appreciation rights will not be exercisable for at least six months after the date of grant except as the Administrator may otherwise determine in the event of death, disability, retirement, or voluntary termination of employment of the participant. Except as otherwise provided by the Administrator, the award of stock appreciation rights will not be exercisable unless the person exercising the award of stock appreciation rights has been at all times during the period beginning with the date of the grant thereof and ending on the date of such exercise, employed by or otherwise performing services for us or one of our subsidiaries.

In the event there is a change in control of the Company, as determined by our board, our board may, in its discretion: (i) provide for the assumption or substitution of, or adjustment to, each outstanding award; (ii) accelerate the vesting of awards and terminate any restrictions on cash awards or stock awards; and (iii) provide for the cancellation of awards for a cash payment to the participant.

Federal Income Tax Consequences of the Incentive Plan

Upon the exercise of a non-qualified stock option, a participant in the Incentive Plan will realize income in the year of exercise equal to the difference between the exercise price and the value of the shares acquired, and we may deduct an amount equal to the income recognized by the participant, subject to the limits under applicable laws. We will not receive a tax deduction at the time of a grant or exercise of an incentive stock option, and no income is recognized by a participant when an incentive stock option is granted or exercised. When an incentive stock option is exercised, the difference between fair market value at the date of exercise and the exercise price will be an item of adjustment for purposes of calculating the participant's alternative minimum tax for the year of exercise.

If the shares of our common stock acquired upon exercise of an incentive stock option are disposed of after the later of two years from the date of option grant or one year after the transfer of the shares to the participant (the "holding period"), any gain or loss upon disposition of the shares will be treated for federal income tax purposes as long-term capital gain or loss, as the case may be. A disposition includes a sale, exchange, gift or other transfer of legal title. In general, a participant's basis in the shares of our common stock received upon exercise of an incentive option will be the exercise price paid by him or her for the shares. If the option shares are disposed before the expiration of the holding period, all or part of any gain will be characterized as ordinary income depending upon the relative amount of the sale price of the shares as compared with the exercise price of the shares. The amount of ordinary income realized by an employee in a sale or exchange for which a loss would be recognized is limited to the excess of the amount realized on the sale or exchange over the stock's adjusted basis.

Upon issuance of RSAs, a participant in the Incentive Plan will not recognize income in the year of grant but will, absent a Section 83(b) election, receive taxable income in the year which the shares' restrictions lapse equal to the market value of the stock on the lapse date. We will receive a corresponding tax deduction when the participant recognizes taxable income.

Ordinary income received on account of a disposition of shares within the holding period will be taxable as additional compensation, and we may treat that income as a deductible expense for federal income tax purposes.

Retirement Benefits

We adopted a 401(k) plan for FutureFuel Chemical Company which is generally available to all of its employees.

Life Insurance and Other Employee Benefits

Our executive officers generally participate in employee welfare plans (life insurance, medical insurance, disability insurance, vacation pay, and the like) maintained by FutureFuel Chemical Company for all of its employees.

The Compensation Committee

Our Compensation Committee currently consists of Donald C. Bedell, Dale E. Cole (Chair), and Terrance C.Z. Egger. Each of these individuals is an "independent director" under the rules of the NYSE, a "Non-Employee Director" within the meaning of Section 16 of the Exchange Act, and an "outside director" within the meaning of § 162(m) of the Internal Revenue Code of 1986, as amended.

Recommendations from Management

Our chairman and chief executive officer make recommendations to the Compensation Committee regarding salaries and bonuses for executive officers, as well as awards under the Incentive Plan. The Compensation Committee takes these recommendations into consideration in approving all such salaries, bonuses, and awards.

Summary Compensation Table

Our executive officers were paid the following compensation for the three-year period ended December 31, 2024.

Summary Compensation Table

(Dollars in thousands)

Person	Year	Salary	Bonus	Stock Awards (g)	Option Awards	All Other Compensation (h)	Total
Roeland Polet (a), (b) Chief Executive Officer	2024	\$ 143	\$ 41	\$ 4,911	\$ -	\$ 9	\$ 5,104
Tom McKinlay (a), (c) Chief Executive Officer and former Chief Operating Officer FutureFuel Chemical Company	2024	317	52	-	-	60	429
	2023	442	206	-	-	51	699
	2022	287	150	-	-	49	486
Rose M. Sparks (a), (d) Chief Financial Officer, principal financial officer, and treasurer, FutureFuel Corp. and FutureFuel Chemical Company	2024	317	52	-	-	61	430
	2023	280	152	-	-	128	560
	2022	212	110	-	-	58	380
Charles Lyon (a), (e) Chief Commercial Officer FutureFuel Corp.	2024	283	52	-	-	51	386
	2023	271	149	-	-	45	465
	2022	225	111	-	-	44	380
Kyle Gaither (a), (f) Chief Operations Officer FutureFuel Corp.	2024	258	52	-	-	29	339
	2023	248	145	-	-	24	417

- (a) Executive officers of FutureFuel Chemical Company for the years indicated.
- (b) Mr. Polet was appointed Chief Executive Officer effective September 3, 2024 upon Mr. McKinlay's retirement. Mr. Polet was issued 750,000 RSUs that vest annually on the anniversary date. These RSUs and related dividends had an intrinsic value of \$4,519 and \$392, respectively.
- (c) Mr. McKinlay retired from the chief executive officer position May 2024 and was given a separation payment of his expected bonus for 2024 (other compensation) as well as half his annual salary to provide certain consulting services to the Company. He will receive another payment of half his salary in 2025. He had been appointed as chief executive officer on July 31, 2022. In 2023, the Compensation Committee approved an adjustment to Mr. McKinlay's base salary to \$400 per annum and that resulted in a lump sum payment in February 2023 of \$56 (based on a deemed retroactive adjustment to August 2022). This lump sum payment is included in Mr. McKinlay's compensation for 2023.
- (d) For Mrs. Sparks, all other compensation includes director fees of \$35, \$105 and \$37 in 2024, 2023, and 2022, respectively. Mrs. Sparks resigned from the board of directors in July 2024.
- (e) Mr. Lyon and the Company agreed to terminate his employment effective as of March 31, 2025.
- (f) Mr. Gaither was appointed Chief Operations Officer effective February 9, 2023. Prior to such appointment, Tom McKinlay served in this role.
- (g) Represents the grant date valuation of the awards under ASC Topic 718, *Stock Compensation*. Assumptions used for determining the value of awards reported here are set forth in Note 17 to our consolidated financial statements included elsewhere herein.
- (h) Includes contributions (including accrued contributions) to vested and unvested defined contribution plans, apartment benefits for Mr. Polet and Mr. Lyon, automobile benefits for Mr. Lyon, HSA matching contributions, and the dollar value of any insurance premiums paid by, or on behalf of, us during or for the covered fiscal year with respect to life and disability insurance for the benefit of the named person. The above amounts do not include travel expenses reimbursed pursuant to Company policy. For 2024, the value of all other compensation not a perquisite or personal benefit in excess of \$10 was for 401(k) match and the 2023 401(k) true-up for \$0 to Mr. Polet, \$19 to Mr. McKinlay, \$19 to Mrs. Sparks, \$20 to Mr. Lyon, and \$24 to Mr. Gaither.

Grants of Plan-Based Awards

In 2024, the Company issued 750,000 RSUs to Roeland Polet, the Company’s Chief Executive Officer in connection with his Employment Agreement. The RSUs vest in five equal installments on each anniversary of the award date, September 3, 2024. The total expense of the award was valued at \$4,911 at the grant date inclusive of dividends. The RSUs were estimated at \$4,519 and will be recognized as compensation expense over the vesting period. The compensation expense recorded in 2024 was \$392. The equivalent dividends earned on the RSUs are forfeitable and recorded as a reduction in retained earnings and an increase in additional paid in capital in 2024.

Outstanding Equity Awards at Fiscal Year-End

Name	Option Awards					Stock Awards	
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Options (#)	Option Exercise Price (\$)	Option Expiration Date	Equity Incentive Plan Awards; Number of unearned RSUs That Have Not Vested	Equity Incentive Awards: Market Value of Unearned RSUs That Have Not Vested \$
TomMcKinlay (a)	4,000	0	0	11.56	1/21/2025	N/A	N/A
Roeland Polet (b)	N/A	N/A	N/A	N/A	N/A	750,000	\$ 3,976,500

(a) In January 2020, we granted 24,000 stock options to TomMcKinlay as our chief operating officer. The options awarded have an exercise price equal to the mean between the highest and lowest quoted sales prices for the Company’s common stock as of the grant date as reported by the New York Stock Exchange. The options awarded vested immediately and expire on January 21, 2025. See Note 17 to our consolidated financial statements for a discussion of the Company’s plan-based awards.

(b) In 2024, the Company issued 750,000 RSUs to Roeland Polet, the Company’s Chief Executive Officer in connection with his Employment Agreement. The RSUs vest in five equal installments on each anniversary of the award date, September 3, 2024. The market value is based on the closing market price of the Company’s stock on December 31, 2024.

Option Exercises and Stock Vested

No previously issued options were exercised by our executive officers in 2024. No previously issued stock awards vested in 2024.

Potential Payments upon Termination or Change in Control

Pursuant to the Employment Agreement, upon a termination of Mr. Polet’s employment without "cause" or by the executive for "good reason," he is entitled to receive, among other things, a payment equal to: (i) 12 months’ base salary and (ii) his target annual bonus, paid in equal installments over the 12-month period following termination and execution of a release of claims. Based on Mr. Polet’s base salary and target annual bonus payment in effect as of December 31, 2024, such payment would be equal to \$750,000 if Mr. Polet had been terminated as of such date. Mr. Polet is not entitled to any payment upon a change in control unless he is terminated under the circumstances described above. Upon termination of his employment or a change in control, Mr. Polet is not entitled to the acceleration of any equity award that he has received to date.

Compensation of Directors

For 2024, our directors received an annual fee of \$50, prorated if their service was for less than the full year. Committee heads received an additional \$25 (chairman of the board), \$20 (audit committee chairman), or \$10 (other committee chairmen), on an annual basis, again prorated if serving as committee chairman for less than the full year. The Compensation Committee also approved the payment to our directors of \$5 for each board meeting and \$2.5 for each committee meeting, whether attended in person or telephonically.

The following was the compensation paid to our directors for 2024.

Summary Compensation of Directors Table

(Dollars in thousands)

Director	Fees Earned or Paid in Cash (\$)	Stock Awards (\$)	Option Awards (\$)	Non-Equity Incentive Plan Compensation (\$)	Change in Pension Value and Non-Qualified Deferred Compensation Earnings (\$)	All Other Compensation (\$)	Total (\$)
Paul A. Novelly*	59.0	-	0	0	0	0	59.0
Donald C. Bedell	112.0	25.8	0	0	0	0	137.8
Paul M. Manheim	127.5	25.8	0	0	0	0	153.3
Dale E. Cole	120.0	25.8	0	0	0	0	145.8
Terrance C.Z. Egger	110.0	25.8	0	0	0	0	135.8
Alain Louvel*	17.4	0	0	0	0	0	17.4
P.A. Novelly, II**	70.0	25.8	0	0	0	0	95.8
Ron J. Kruszewski*	70.0	25.8	0	0	0	0	95.8
Rose Sparks*	35.0	0	0	0	0	0	35.0
GBruce Greer	65.1	25.8	21.8	0	0	0	112.7
Richard P. Rowe	29.0	25.8	16.2	0	0	0	71.0

*Mr. Alain Louvel resigned from the board in February 2024 and Mrs. Rose Sparks resigned in July 2024. Mr. Novelly's term as a director ended at the 2024 annual meeting of the Company's stockholders.

**Director fees were designated to be paid to a charitable organization by P.A. Novelly, II in the amount of \$70.

During 2024, the compensation committee reviewed the compensation structure and determined to modify it as follows for 2025:

- An annual cash retainer fee of \$95 per director;
- Additional annual cash retainer fee of \$60 for our chairman;
- Additional annual retainer fee of \$30 for the chairman of the Audit Committee;
- Additional annual retainer fee of \$20 for the chairman of the Compensation Committee;
- Additional annual retainer fee of \$15 for the chairman of any other committee of the board;
- Per meeting fee of \$7.5 for each meeting of the board attended by a director in person or remotely, subject to a maximum annual, aggregate fee of \$45;
- Per meeting fee of \$7.5 for each meeting of a committee of the board attended by a committee person in person or remotely;
- An annual grant of 5,000 shares of the Company's common stock pursuant and subject to the terms and conditions of the Incentive Plan, with the grant for 2024 to be in December 2024 and thereafter on the date of the Company's annual meeting of stockholders; and
- Upon the appointment of a new director to the Board, such director shall receive a grant of options to purchase up to 10,000 shares of the Company's Common Stock pursuant and subject to the terms and conditions of the Plan.

The following table sets forth information concerning unexercised options, stock awards that have not vested, and equity incentive plan awards as of December 31, 2024, with respect to our directors.

Name	Option Awards					Stock Awards			
	Number of Securities Underlying Unexercised Options (#) Exercisable	Number of Securities Underlying Unexercised Options (#) Unexercisable	Equity Incentive Plan Awards: Number of Securities Unexercised Options (#)	Option Exercise Price (\$)	Option Expiration Date	Number of Shares or Units of Stock That Have Not Vested (#)	Market Value of Shares or Units of Stock That Have Not Vested (\$)	Equity Incentive Plan Awards: Number of Shares, Units or Other Rights That Have Not Vested (#)	Equity Incentive Plan Awards: Market or Payout Value of Unearned Shares, Units or Other Rights That Have Not Vested (\$)
P.A. Novelly, II	10,000	0	0	7.18	8/1/2027	0	0	0	0
Ron Kruszewski	10,000	0	0	7.18	8/1/2027	0	0	0	0
GBruce Greer	10,000	0	0	7.55	3/18/2029	0	0	0	0
Richard P. Rowe	10,000	0	0	5.73	8/13/2029	0	0	0	0

(a) In August 2024, March 2024 and August 2022, we granted a total of 10,000, 10,000 and 20,000, respectively, stock options to our new board members. The options awarded have an exercise price equal to the mean between the highest and lowest quoted sales prices for the Company's common stock as of the grant date as reported by the New York Stock Exchange. The options awarded vested immediately and expire on August 13, 2029, March 18, 2029 and August 1, 2027, respectively. See Note 17 to our consolidated financial statements for a discussion of the company's plan-based awards.

Compensation Committee Interlocks and Insider Participation

The members of our Compensation Committee during 2024 were Donald C. Bedell, Terrance C.Z. Egger, Paul M. Manheim, and Dale E. Cole. The committee was chaired by Mr. Cole. None of such individuals are or have been an officer or employee of the Company, nor did we enter into any transactions with such individuals during 2024 (other than the payment of directors' fees and other compensation, as noted above, solely in their capacity as directors).

Mr. Novelly, II, Mr. Bedell (our chairman and the chair of our Nominating/Corporate Governance Committee), and Mr. Manheim (one of our directors and the chair of the Audit Committee) are directors of World Point Terminals, Inc., a Delaware company based in Missouri that, through its operating subsidiaries, owns and operates petroleum storage facilities in the United States. World Point Terminals, Inc. does not have a separate compensation committee.

Compensation Committee Report

The Compensation Committee of our board has reviewed and discussed the Compensation Discussion and Analysis set forth above with our management. Based on this review and discussions, the Compensation Committee recommended to our board of directors that the Compensation Discussion and Analysis be included in this Annual Report on Form 10-K.

Dale E. Cole (Chair), Donald C. Bedell, Terrance C.Z. Egger, and Paul M. Manheim

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

Securities Authorized for Issuance Under Equity Compensation Plans

Our board of directors adopted the Incentive Plan which was approved by our shareholders at our 2017 annual shareholder meeting. We do not have any other equity compensation plans or individual equity compensation arrangement. Under the Incentive Plan, awards are limited to 10% of the issued and outstanding shares of our common stock in the aggregate. The shares to be issued under the Incentive Plan were registered with the SEC on a Form S-8 filed on November 9, 2017. Through December 31, 2024, we have issued options to purchase 84,000 shares of our common stock, of which options to purchase 44,000 shares remain issued and outstanding, but have awarded no shares to participants under the Incentive Plan. The following additional information regarding the Incentive Plan is as of December 31, 2024.

Plan Category	Number of securities to be issued upon exercise of outstanding units, options, warrants and rights	Weighted-average exercise price of outstanding options, warrants and rights (excluding RSUs reflected in column (a))	Number of securities remaining available for future issuance under equity compensation plans (excluding securities reflected in column (a))
Equity compensation plans approved by security holders	794,000	\$7.33	3,526,324

Security Ownership of Certain Beneficial Owners

As of the date of this report, 43,763,243 shares of our common stock are issued and outstanding, and we have no other securities issued and outstanding. The shares of common stock are our only voting securities issued and outstanding. The following table sets forth the number and percentage of shares of common stock owned by all persons known by us to be the beneficial owners of more than 5% of shares of our common stock as of February 25, 2024.

Name and Address of Beneficial Owner	Amount of Beneficial Ownership	Percent of Common Stock
Paul Anthony Novelly II (a) 8235 Forsyth Blvd., 4th Floor Clayton, MO 63105	17,475,100	39.9%
Dimensional Fund Advisors LP (b) 6300 Bee Cave Road, Building One Austin, TX 78746	2,218,292	5.1%
BlackRock, Inc. (c) 55 East 52nd Street New York, NY 10055	2,226,538	5.1%

- (a) Includes 17,085,100 shares of common stock held by St. Albans Global Management, LLC and 375,000 shares of common stock held by Apex Holding Co. Mr. Novelly II is the sole manager of SAGM Holdings, LLC, which is the manager of St. Albans Global Management, LLC and the chief executive officer of Apex Holding Co., and thereby has voting and investment power over such shares and may be deemed to share beneficial ownership. Also includes 10,000 shares that may be acquired pursuant to the exercise of options awarded under the Incentive Plan.
- (b) Based solely upon an Amendment to Schedule 13G/A filed with the SEC by the listed person on January 23, 2025. According to the filing, Dimensional Fund Advisors LP furnishes investment advice to four investment companies registered under the Investment Company Act of 1940, and serves as investment manager or sub-advisor to certain other commingled funds, group trusts and separate accounts (collectively, the "Funds"). In certain cases, subsidiaries of Dimensional Fund Advisors LP may act as an adviser or sub-advisor to certain Funds. In its role as investment advisor, sub-advisor and/or manager, Dimensional Fund Advisors LP or its subsidiaries (collectively, "Dimensional") may possess voting and/or investment power over the securities of the Issuer that are owned by the Funds, and may be deemed to be the beneficial owner of the shares of the Issuer held by the Funds. However, all securities reported above are owned by the Funds. Dimensional reported power to vote or to direct the vote of 2,166,257 shares and sole power to dispose or to direct the disposition of 2,218,292 shares. Dimensional disclaims beneficial ownership of such securities.
- (c) Based solely upon an Amendment to Schedule 13G/A filed with the SEC by the listed person on January 31, 2024. According to the filing, BlackRock, Inc. filed the Schedule 13G amendment as the parent holding company or control person of Aperio Group, LLC, BlackRock Advisors, LLC, BlackRock Asset Management Canada Limited, BlackRock Fund Advisors, BlackRock Institutional Trust Company, N.A., BlackRock Financial Management, Inc., and BlackRock Investment Management, LLC. BlackRock, Inc. reported sole voting power over 2,179,664 shares and sole dispositive power over 2,226,538 shares.

Security Ownership of Management

The following table sets forth information regarding the beneficial ownership of our common stock as of the date of this report by each of our directors and executive officers and the executive officers of FutureFuel Chemical Company. Unless otherwise indicated, we believe that all persons named in the table below have sole voting and investment power with respect to all shares of common stock beneficially owned by them and none of such shares have been pledged as security.

Name of Beneficial Owner	Amount of Beneficial Ownership	Percent of Common Stock
Paul A. Novelly II (a)	17,475,100	39.9%
Roeland Polet (b)	760,000	1.7%
Ron J. Kruswesi (d)	115,000	*
Donald C. Bedell (c)	104,975	*
Paul M. Manheim	24,103	*
Rose M. Sparks	19,283	*
G Bruce Greer (d)	15,000	*
Richard P Rowe (d)	15,000	*
Terrance C.Z. Egger	14,895	*
Charlie W. Lyon (e)	11,400	*
Dale E. Cole	7,516	*
Kyle Gaither	1,161	*
All directors and executive officers	18,563,433	42.4%

* less than 1%

- (a) Includes 17,085,100 shares of common stock held by St. Albans Global Management, LLC and 375,000 shares of common stock held by Apex Holding Co. Mr. Novelly II is the sole manager of SAGM Holdings, LLC, which is the manager of St. Albans Global Management, LLC, and the chief executive officer of Apex Holding Co. and thereby has voting and investment power over such shares and may be deemed to share beneficial ownership. Includes 10,000 shares that may be acquired pursuant to the exercise of options awarded to Mr. Novelly II as director under the Incentive Plan.
- (b) Includes 750,000 RSUs subject to certain vesting conditions.
- (c) Includes 2,500 shares of common stock owned by the Alexandra Nicole Bedell Trust, a trust established by Mr. Bedell for his granddaughter as to which Mr. Bedell serves as trustee but holds no pecuniary interest; Mr. Bedell disclaims beneficial ownership of all shares of our common stock held by this trust. Includes 2,553 shares of common stock owned by the Ashlyn Tate Bedell Trust, a trust established by Mr. Bedell for his granddaughter as to which Mr. Bedell serves as trustee but holds no pecuniary interest; Mr. Bedell disclaims beneficial ownership of all shares of our common stock held by this trust. Includes 2,500 shares of common stock owned by the Hailey Bedell Trust, a trust established by Mr. Bedell for his granddaughter as to which Mr. Bedell serves as trustee but holds no pecuniary interest; Mr. Bedell disclaims beneficial ownership of all shares of our common stock held by this trust. Includes 86,197 shares of our common stock held by the Africa Exempt Trust, of which Mr. Bedell is a beneficiary. Includes 200 shares of common stock owned by the Charlie Cash Bedell Trust, a trust established by Mr. Bedell for his grandson as to which Mr. Bedell serves as trustee but holds no pecuniary interest; Mr. Bedell disclaims beneficial ownership of all shares of our common stock held by this trust.
- (d) Includes 10,000 shares that may be acquired pursuant to the exercise of options awarded under the Incentive Plan.
- (e) Mr. Lyon and the Company agreed to terminate his employment effective as of March 31, 2025.

Change in Control

We are not aware of any arrangement the operation of which may at a date subsequent to the date of this report result in a change of control of our company.

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

Transactions with Related Persons

From time to time, we may sell to Apex Oil Company, Inc. and/or its affiliates biofuels (including biodiesel) produced by us, and Apex Oil Company, Inc. and/or its affiliates may sell to us, or we may sell to them, diesel fuel, gasoline, natural gas, and other petroleum products in our biofuels business. Such sales will be at then posted prices for comparable products plus or minus applicable geographical differentials. We also may reimburse Apex Oil Company, Inc. for certain legal, trading and administrative services. The dollar amounts of such transactions and other related party transactions are detailed in Note 20 to our consolidated financial statements included elsewhere herein.

Review, Approval, or Ratification of Transactions with Related Persons

Any transaction in which we (or one of our subsidiaries) are a participant, the amount involved exceeds the lesser of \$120 or 1% of our net income, total assets, or total capital, and in which any party related to us has or will have a direct or indirect material interest must be approved by a majority of the disinterested members of our board of directors as fair to us and our shareholders. This policy was adopted by our board on January 8, 2007 and amended on February 2, 2011, and can be found through the "Investors - Corporate Governance" section of our website (<https://futurefuel-corporation.ir.rdgfilings.com/corporate-governance/>). All of the agreements described above in this Item 13 and in Note 20 to our consolidated financial statements have been approved by a majority of the disinterested members of our board of directors.

In addition, we adopted a Code of Business Conduct and Ethics which sets forth legal and ethical standards of conduct for our directors, officers, and employees and the directors, officers, and employees of our subsidiaries. This Code is designed to deter wrongdoing and to promote: (i) honest and ethical conduct, including the ethical handling of actual or apparent conflicts of interest between personal and professional relationships; (ii) full, fair, accurate, timely, and understandable disclosure in reports and documents that we file with, or submit to, the SEC and in other public communications made by us; (iii) compliance with applicable governmental laws, rules, and regulations; (iv) the prompt internal reporting of violations of this Code to appropriate persons identified in this Code; and (v) accountability for adherence to this Code. This Code was adopted by our board on November 30, 2005 and was amended on February 3, 2011, January 1, 2016, and August 5, 2023, is in writing, and can be found through the "Investors - Corporate Governance" section of our website (<https://futurefuel-corporation.ir.rdgfilings.com/corporate-governance/>). Each of the transactions described above (under the caption "Transactions with Related Persons") was undertaken in compliance with our Code of Business Conduct and Ethics and approved by a majority of the disinterested members of our board of directors.

Director Independence

The SEC has promulgated Rule 10A-3, which sets forth the independence requirements for members of an audit committee. The following members of our board of directors are independent under the SEC's definitions of independence:

Donald C. Bedell
Paul M. Manheim
Terrance C.Z. Egger
Dale E. Cole
Ron J. Kruszewski
G. Bruce Greer
Richard P. Rowe

Each member of our board of directors' Compensation, Audit, and Nominating/Corporate Governance Committees are comprised of directors who are independent under the definition of independence adopted by the NYSE.

Item 14. Principal Accountant Fees and Services.

Audit Fees

During fiscal 2024, we incurred \$519,117 and \$146,000 for audit and financial statement review services from Grant Thornton LLP and RSM US LLP, respectively. During fiscal 2023, we incurred \$445,000 for audit and financial statement review services from RSM US LLP.

Audit-Related Fees

During fiscal 2024 we incurred \$21,000 employee benefit plan audit procedures from Grant Thornton LLP. During fiscal 2023, we incurred \$16,000 for employee benefit plan audit procedures from RSM US LLP.

Tax Fees

During fiscal 2024 and 2023, we incurred fees of \$0 and \$0, respectively, for tax compliance, tax advice and tax planning services from Grant Thornton LLP or RSM US LLP.

All Other Fees

We did not incur any other fees for other services from Grant Thornton LLP and RSM US LLP during fiscal 2024 or fiscal 2023.

Pre-Approval Policies

Our Audit Committee approves the engagement of our independent auditors prior to their rendering audit or non-audit services and sets their compensation. Pursuant to SEC regulations, our Audit Committee approves all fees payable to the independent auditors for all routine and non-routine services provided. Our Audit Committee considers and approves the budget for the annual audit and financial statement review services prior to the initiation of the work. Non-routine services in the ordinary course of business, which are not prohibited under SEC regulation, such as tax planning, tax compliance, and other services are generally pre-approved on a case-by-case basis.

Percentage of Hours Expended

N/A

PART IV

Item 15. Exhibits and Financial Statement Schedules.

- (a) List separately all financial statements filed as part of this report.
1. FutureFuel Corp.'s audited consolidated Balance Sheets as at December 31, 2024 and 2023 and the related consolidated Statements of Operations, Statements of Changes in Stockholders' Equity, and Statements of Cash Flows for the years ended December 31, 2024, 2023 and 2022.
- (b) Exhibits required by Item 601 of Regulation S-K.
- 3.1. [Fourth Amended and Restated Certificate of Incorporation \(incorporated by reference to Exhibit No. 3.3.f to Amendment No. 2 to Form 10 filed February 29, 2008\)](#)
 - 3.2. [FutureFuel Corp.'s Bylaws \(incorporated by reference to Exhibit No. 3.2.a to Form 10 filed April 24, 2007\)](#)
 - 4.1. [Registration Rights Agreement dated July 12, 2006 among FutureFuel Corp., St. Albans Global Management, Limited Partnership, LLLP, Lee E. Mikles as Trustee of the Lee E. Mikles Gift Trust dated October 6, 1999, Lee E. Mikles as Trustee of the Lee E. Mikles Revocable Trust dated March 26, 1996, Douglas D. Hommert as Trustee of the Douglas D. Hommert Revocable Trust, Edwin A. Levy, Joe C. Leach, Mark R. Miller, RAS LLC, Edwin L. Wahl, Jeffery H. Call and Ken Fenton \(incorporated by reference to Exhibit No. 4.5 to Form 10 filed April 24, 2007\)](#)
 - 4.2. [Description of common stock \(incorporated by reference to Exhibit No.4.2 to Form 10-K filed March 16, 2021\).](#)
 - 10.1. [Registrar Agreement dated June 27, 2008 between FutureFuel Corp. and Computershare Investor Services \(Channel Islands\) Limited \(incorporated by reference to Exhibit No. 10.2 to Form 10-K filed March 16, 2009\)](#)
 - 10.2. [Storage and Thruput Agreement dated November 1, 2006 between FutureFuel Chemical Company and Center Point Terminal Company \(incorporated by reference to Exhibit No. 10.4 to Form 10 filed April 24, 2007\).](#)
 - 10.3. [Commodity Trading Advisor Agreement dated November 1, 2006 between FutureFuel Chemical Company and Apex Oil Company, Inc., as amended \(incorporated by reference to Exhibit No. 10.5 to Form 10 filed April 24, 2007 and Exhibit No. 10.3 to Form 10-Q filed August 10, 2015\)](#)
 - 10.4. [Service Agreement dated November 1, 2006 between FutureFuel Corp. and Pinnacle Consulting, Inc. \(incorporated by reference to Exhibit No. 10.6 to Form 10 filed April 24, 2007\)](#)
 - 10.5. [Time Sharing Agreement dated April 18, 2007 between Apex Oil Company, Inc. and FutureFuel Corp. \(incorporated by reference to Exhibit No. 10.15 to Form 10 filed April 24, 2007\)](#)

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10.6*	Omnibus Incentive Plan (incorporated by reference to Appendix A to Schedule 14A filed July 26, 2017)
10.7	Amended and Restated Credit Agreement dated as of March 30, 2020 by and among FutureFuel Corp. and FutureFuel Chemical Company, certain Subsidiaries from time to time party thereto, as guarantors, the Lenders from time to time party thereto, and Regions Bank, as administrative agent and collateral agent (incorporated by reference to Exhibit 10.20 to Form 10-Q filed May 8, 2020)
10.8	Second Amended and Restated Credit Agreement
10.9*	Form of Option Agreement (incorporated by reference to Exhibit No 10.2 to Form 10-Q filed August 8, 2022).
10.10*	Separation and Release Agreement by and between Tom McKinlay and the Company dated May 24, 2024 (incorporated by reference to Exhibit 10.1 to Form 8-K filed May 29, 2024).
10.11*	Employment Agreement, dated August 16, 2024, by and between Roeland Polet and FutureFuel Corp. (incorporated by reference to Exhibit 10.1 to Form 8-K filed August 20, 2024).
10.12*	Form of Restricted Stock Award Agreement (Non-Employee Directors)
10.13*	Form of Stock Unit Award Agreement (Employee)
18	FutureFuel Corp.- Preferability Letter of Grant Thomton LLP
19.1	FutureFuel Corp. Insider Trading Policy
21	Subsidiaries of FutureFuel Corp.
23.1	Consent of Grant Thomton LLP
23.2	Consent of RSM US LLP
31.1	Rule 13a-15(e)/15d-15(e) Certification of chief executive officer
31.2	Rule 13a-15(e)/15d-15(e) Certification of principal financial officer
32	Section 1350 Certification of chief executive officer and principal financial officer
97.1	FutureFuel Corp. Clawback Policy
101.1	Interactive Data Files**
101.INS	Inline XBRL Instance Document (the Instance Document does not appear in the Interactive Data File because its XBRL
101.SCH	Inline XBRL Taxonomy Extension Schema Document
101.CAL	Inline XBRL Taxonomy Extension Calculation Linkbase Document
101.DEF	Inline XBRL Taxonomy Extension Definition Linkbase Document
101.LAB	Inline XBRL Taxonomy Extension Label Linkbase Document
101.PRE	Inline XBRL Taxonomy Extension Presentation Linkbase Document
104	Cover Page Interactive Data File (formatted as Inline XBRL and contained in Exhibit 101)
*	Management contract or compensatory plan or arrangement
**	Pursuant to Rule 406T of Regulation S-T, the Interactive Data Files in Exhibit 101 hereto are deemed not filed or part of a registration statement or prospectus for purposes of Section 11 or 12 of the Securities Act of 1933, as amended, are deemed not filed for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, and otherwise are not subject to liability under those sections.

Item 16. Summary

Registrants may voluntarily include a summary of information required by Form 10-K under this Item 16. The Company has elected not to include such summary information.

SIGNATURES

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

FUTUREFUEL CORP.

By: /s/ Rose M. Sparks

Rose M. Sparks, Chief Financial Officer, Principal Financial Officer, and Principal Accounting Officer

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

/s/ Roeland Polet

Roeland Polet, Chief Executive Officer

By: /s/ Rose M. Sparks

Rose M. Sparks, Chief Financial Officer, Principal Financial Officer, and Principal Accounting Officer

/s/ Donald C. Bedell

Donald C. Bedell, Chairman and Director

/s/ Paul M. Manheim

Paul M. Manheim, Director

/s/ Dale E. Cole

Dale E. Cole, Director

/s/ Terrance C.Z. Egger

Terrance C.Z. Egger, Director

/s/ Ron J. Kruszewski

Ron J. Kruszewski, Director

/s/ P.A. Novelly, II

P.A. Novelly, II, Director

/s/ G Bruce Greer

G Bruce Greer, Director

/s/ Richard P. Rowe

Richard P. Rowe, Director

Date: March 31, 2025

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

dated as of February 21, 2025

among

FUTUREFUEL CORP.
and
FUTUREFUEL CHEMICAL COMPANY,
as Borrowers,

CERTAIN SUBSIDIARIES OF THE BORROWERS
PARTY HERETO FROM TIME TO TIME,
as Guarantors

THE LENDERS PARTY HERETO,

REGIONS BANK,
as Administrative Agent, Collateral Agent, Issuing Bank and Swingline Lender

REGIONS CAPITAL MARKETS,
a division of Regions Bank,
as Sole Lead Arranger and Sole Bookrunner

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Exhibits

Exhibit 1.1	Form of Secured Party Designation Notice
Exhibit 2.1	Form of Funding Notice
Exhibit 2.3	Form of Issuance Notice
Exhibit 2.5-1	Form of Revolving Loan Note
Exhibit 2.5-2	Form of Swingline Note
Exhibit 2.8	Form of Conversion/Continuation Notice
Exhibit 2.18-1	Form of Borrower Request and Assumption Agreement
Exhibit 2.18-2	Form of New Borrower Notice
Exhibit 3.3	Forms of U.S. Tax Compliance Certificates (Forms 1 – 4)
Exhibit 7.1(c)	Form of Compliance Certificate
Exhibit 7.13	Form of Guarantor Joinder Agreement
Exhibit 11.5	Form of Assignment Agreement

SECOND AMENDED AND RESTATED CREDIT AGREEMENT

This SECOND AMENDED AND RESTATED CREDIT AGREEMENT, dated as of February 21, 2025 (as amended, restated, increased, extended, supplemented or otherwise modified from time to time, this "Agreement"), is entered into by and among FUTUREFUEL CORP., a Delaware corporation (the "Parent"), and FUTUREFUEL CHEMICAL COMPANY, a Delaware corporation (the "Company"), and together with the Parent and any Additional Borrowers (defined herein), the "Borrowers" and each a "Borrower"), certain Subsidiaries of the Borrowers from time to time party hereto, as Guarantors, the Lenders from time to time party hereto, and REGIONS BANK, as administrative agent (in such capacity, "Administrative Agent"), collateral agent (in such capacity, "Collateral Agent"), Issuing Bank and Swingline Lender.

RECITALS:

WHEREAS, the Borrowers, the Guarantors identified therein, certain Lenders, the Administrative Agent and the Collateral Agent are parties to that certain Amended and Restated Credit Agreement dated as of March 30, 2020 (as amended or modified from time to time prior to the date hereof, the "Existing Credit Agreement");

WHEREAS, at the request of the Borrowers, the parties hereto agree that the Existing Credit Agreement shall be and hereby is amended and restated in its entirety as set forth herein; and

NOW, THEREFORE, in consideration of these premises and the mutual covenants and agreements contained herein, the receipt and sufficiency of which are hereby acknowledged, the parties hereto covenant and agree as follows:

Section 1. DEFINITIONS AND INTERPRETATION

Section 1.1 Definitions. The following terms used herein, including in the introductory paragraph, recitals, exhibits and schedules hereto, shall have the following meanings:

"Acquisition" means, with respect to any Person, the acquisition by such Person, in a single transaction or in a series of related transactions, of (a) all or any substantial portion of the property of another Person, or any division, line of business or other business unit of another Person or (b) at least a majority of the Voting Stock of another Person, in each case whether or not involving a merger or consolidation with such other Person and whether for cash, property, services, assumption of Indebtedness, securities or otherwise.

"Additional Borrower" means as defined in Section 2.18.

"Adjusted Term SOFR" means, as of any date of determination, with respect to any calculations relating to a SOFR Loan for any applicable Interest Period, a SOFR Borrowing for any selected Interest Period and/or the determination of the Base Rate in accordance with clause (c) of such definition below, the *sum of*: (a) the rate per annum equal to Term SOFR for such Interest Period determined as of such date; *plus* (b) the SOFR Adjustment.

"Administrative Agent" means as defined in the introductory paragraph hereto, together with its successors and assigns.

"Administrative Questionnaire" means an administrative questionnaire provided by the Lenders in a form supplied by the Administrative Agent.

"**Adverse Proceeding**" means any action, suit, proceeding (whether administrative, judicial or otherwise), governmental investigation or arbitration (whether or not purportedly on behalf of any Credit Party or any of its Subsidiaries) at law or in equity, or before or by any Governmental Authority, whether pending, threatened in writing against any Credit Party or any of its Subsidiaries or any material property of any Credit Party or any of its Subsidiaries.

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

"**Affected Lender**" means as defined in [Section 3.1\(b\)](#).

"**Affected Loans**" means as defined in [Section 3.1\(b\)](#).

"**Affiliate**" means, with respect to any Person, another Person that directly, or indirectly through one or more intermediaries, Controls or is Controlled by or is under common Control with the Person specified.

"**Agent**" means each of the Administrative Agent and the Collateral Agent.

"**Aggregate Revolving Commitments**" means the Revolving Commitments of all the Lenders. The aggregate principal amount of the Aggregate Revolving Commitments in effect on the Effective Date is SEVENTY-FIVE MILLION DOLLARS (\$75,000,000).

"**Agreement**" means as defined in the introductory paragraph hereto.

"**ALTA**" means American Land Title Association.

"**Anti-Corruption Laws**" means the Foreign Corrupt Practices Act, 15 U.S.C. §§ 78dd-1, *et seq.*, the UK Bribery Act of 2010 and all other laws, rules, and regulations of any jurisdiction applicable to any Credit Party or any of its Affiliates from time to time concerning or relating to bribery or corruption.

"**Applicable Laws**" means all applicable laws, including all applicable provisions of constitutions, statutes, rules, ordinances, regulations and orders of all Governmental Authorities and all orders, rulings, writs and decrees of all courts, tribunals and arbitrators.

"**Applicable Margin**" means (a) from the Effective Date through the date two (2) Business Days immediately following the date on which the first Compliance Certificate is delivered pursuant to [Section 7.1\(c\)](#) following the Effective Date, the percentage per annum based upon Pricing Level I in the table set forth below, and (b) thereafter, the percentage per annum determined by reference to the table set forth below using the Consolidated Leverage Ratio as set forth in the Compliance Certificate most recently delivered to the Administrative Agent pursuant to [Section 7.1\(c\)](#), with any increase or decrease in the Applicable Margin resulting from a change in the Consolidated Leverage Ratio becoming effective on the date two (2) Business Days immediately following the date on which such Compliance Certificate is delivered.

Pricing Level	Consolidated Leverage Ratio	SOFN Loans and Letter of Credit Fee	Base Rate Loans	Commitment Fee
I	< 1.00:1.0	1.00%	0.00%	0.15%
II	≥ 1.00:1.0 and < 1.50:1.0	1.25%	0.25%	0.15%
III	≥ 1.50:1.0 and < 2.00:1.0	1.50%	0.50%	0.20%
IV	≥ 2.00:1.0 and < 2.50:1.0	1.75%	0.75%	0.20%
V	≥ 2.50:1.0	2.00%	1.00%	0.25%

Notwithstanding the foregoing, (x) if at any time a Compliance Certificate is not delivered when due in accordance herewith, then Pricing Level V as set forth in the table above shall apply as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and shall remain in effect until the date on which such Compliance Certificate is delivered and (y) the determination of the Applicable Margin for any period shall be subject to the provisions of [Section 2.7\(e\)](#).

"[Approved Fund](#)" means any Fund that is administered or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers or manages a Lender.

"[Asset Sale](#)" means a sale, lease, sale and leaseback, assignment, conveyance, exclusive license (as licensor), Securitization Transaction, transfer or other disposition to, or any exchange of property with, any Person, in one transaction or a series of transactions, of all or any part of any Credit Party or any of its Subsidiaries' businesses, assets or properties of any kind, whether real, personal, or mixed and whether tangible or intangible, whether now owned or hereafter acquired, created, leased or licensed, including the Equity Interests of any Subsidiary of any Borrower, other than (a) dispositions of surplus, obsolete or worn out property or property no longer used or useful in the business of the Borrowers and their Subsidiaries, whether now owned or hereafter acquired, in the ordinary course of business; (b) dispositions of inventory sold, and Intellectual Property licensed, in the ordinary course of business; (c) dispositions of accounts or payment intangibles (each as defined in the UCC) resulting from the compromise or settlement thereof in the ordinary course of business for less than the full amount thereof; (d) dispositions of Cash Equivalents in the ordinary course of business; and (e) licenses, sublicenses, leases or subleases granted to any third parties in arm's-length commercial transactions in the ordinary course of business that do not interfere in any material respect with the business of any Borrower or any of its Subsidiaries.

"[Assignment Agreement](#)" means an assignment agreement entered into by a Lender and an Eligible Assignee (with the consent of any party whose consent is required by [Section 11.5\(b\)](#)) and accepted by the Administrative Agent, in substantially the form of [Exhibit 11.5](#) or any other form (including electronic documentation generated by MarketClear or other electronic platform) approved by the Administrative Agent.

"[Attributable Principal Amount](#)" means (a) in the case of Capital Leases, the amount of Capital Lease obligations determined in accordance with GAAP, (b) in the case of Synthetic Leases, an amount determined by capitalization of the remaining lease payments thereunder as if it were a Capital Lease determined in accordance with GAAP, (c) in the case of Securitization Transactions, the outstanding principal amount of such financing, after taking into account reserve amounts and making appropriate adjustments, determined by the Administrative Agent in its reasonable judgment and (d) in the case of Sale and Leaseback Transactions, the present value (discounted in accordance with GAAP at the debt rate implied in the applicable lease) of the obligations of the lessee for rental payments during the term of such lease.

"Authorized Officer" means, as applied to any Person, any individual holding the position of chairman of the board (if an officer), chief executive officer, president or one of its vice presidents (or the equivalent thereof), chief financial officer or treasurer and, solely for purposes of making the certifications required under Section 5.1(b)(ii) and (iv), any secretary or assistant secretary.

"Auto Borrow Agreement" has the meaning specified in Section 2.2(b)(vi).

"Available Tenor" means, as of any date of determination and with respect to the then-current Benchmark, as applicable, any tenor for such Benchmark or any payment period for interest calculated with reference to such Benchmark, as applicable, that is, or may be, used for determining the length of any interest period (including any Interest Period) pursuant to this Agreement as of such date of determination.

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

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

"Bankruptcy Code" means Title 11 of the United States Code entitled "Bankruptcy," as now and hereafter in effect, or any successor statute.

"Base Rate" means, for any date of determination, a rate per annum equal to the *highest* of (a) the rate of interest that Regions announces from time to time as its prime lending rate, as in effect from time to time (the "Prime Rate"), (b) the Federal Funds Rate, as in effect from time to time, *plus* one-half of one percent (0.50%) per annum, (c) Adjusted Term SOFR in effect on such day for a forward-looking Interest Period of one (1) month commencing on such day, *plus* one percent (1.00%) per annum (with any change(s) in any of the rates described in the foregoing clauses (a) through (c) to be effective as of the date of any such change(s) in such rates), and (d) the Floor. The Prime Rate is a reference rate and does *not* necessarily represent the lowest or best rate actually charged to any customer. The Administrative Agent and the Lenders may make commercial loans, or other loans, at rates of interest at, above, or below the Prime Rate. Any change(s) to the Base Rate due to a change in the Prime Rate, the Federal Funds Rate and/or Adjusted Term SOFR, as the case may be, will be deemed to be effective from, and including, the date of effectiveness of such change(s) to the Prime Rate, the Federal Funds Rate and/or Adjusted Term SOFR. For the avoidance of doubt and notwithstanding anything to the contrary in the foregoing, if, at any time, the Base Rate is *less than* the Floor, then the Base Rate shall be deemed to equal the Floor for all purposes of this Agreement and the other Credit Documents.

"Base Rate Borrowing" means a Borrowing, the Loans in respect of which bear interest at a rate determined by reference to the Base Rate (including, for the avoidance of doubt, pursuant to clause (c) of the definition of "Base Rate" above).

"Base Rate Loan" means a Loan bearing interest at a rate determined by reference to the Base Rate (including, for the avoidance of doubt, pursuant to clause (c) of the definition of "Base Rate" above).

"Benchmark" means, initially, the SOFR Reference Rate (for any applicable tenor); provided, that, if any Benchmark Replacement has been incorporated into this Agreement after the Effective Date pursuant to Section 3.1, then "Benchmark" shall mean the applicable Benchmark Replacement.

"Benchmark Illegality / Impracticability Event" means the occurrence of one (1) or more of the following events:

(a) the making, maintaining and/or continuation of the then-current Benchmark by any Lender shall have become unlawful as a result of compliance by such Lender in good faith with any law, treaty, governmental rule, regulation, guideline or order (or would conflict with any such treaty, governmental rule, regulation, guideline or order *not* having the force of law, even though the failure to comply therewith would *not* be unlawful);

(b) with respect to any Benchmark, any successor administrator of the published screen rate for such Benchmark, or any Governmental Authority having jurisdiction over the Administrative Agent or the administrator of such Benchmark, shall have made a public statement establishing a specific date (whether expressly or by virtue of such public statement) after which an Available Tenor of such Benchmark, or the published screen rate for such Benchmark, shall or will no longer be representative or made available, or otherwise used for determining the interest rate of loans, or shall or will otherwise cease; provided, that, at the time of such statement, there is no successor administrator that is satisfactory to the Administrative Agent that will continue to provide such representative interest periods of such Benchmark after such specific date;

(c) the making, maintaining and/or continuation of the then-current Benchmark by any Lender has become impracticable, as a result of contingencies occurring after the Effective Date that materially and adversely affect the ability of a Lender to make, maintain and/or continue its Loans at the then-current Benchmark (including, without limitation, because the published screen rate for such Benchmark in a relevant tenor is *not* available or published on a current basis and such circumstances are unlikely to be temporary); or

(d) with respect to any Lender, the then-current Benchmark (including any related mathematical or other adjustments thereto) does or will *not* adequately and fairly reflect the cost to such Lender of making, funding and/or maintaining its Loans at the then-current Benchmark.

For the avoidance of doubt, a "Benchmark Illegality / Impracticability Event" shall be deemed to have occurred, with respect to any Benchmark, if a public statement or publication of information as described above has occurred with respect to each then-current Available Tenor of such Benchmark (or the published component used in the calculation thereof).

"Benchmark Replacement" means: (a) Daily Simple SOFR for any payment period for interest calculated that can be determined by the Administrative Agent; and (b) any other Benchmark Replacement that has been incorporated into this Agreement after the Effective Date pursuant to Section 3.1(g)(ii).

"Benchmark Replacement Adjustment" means, with respect to any replacement of the then-current Benchmark with an Unadjusted Benchmark Replacement, the spread adjustment, or method for calculating or determining such spread adjustment (which may be a positive or negative value or equal to zero), that has been selected by the Administrative Agent and the Borrowers, giving due consideration to: (a) any selection or recommendation of a spread adjustment, or method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement by the Relevant Governmental Body; or (b) any evolving, or then-prevailing, market convention for determining a spread adjustment, or a method for calculating or determining such spread adjustment, for the replacement of such Benchmark with the applicable Unadjusted Benchmark Replacement for Dollar-denominated syndicated credit facilities at such time.

"Benchmark Replacement Date" has the meaning specified in Section 3.1(g)(i).

"Beneficial Ownership Certification" means as defined in Section 5.1(h).

"Benefit Plan" means any of (a) an "employee benefit plan" (as defined in ERISA) that is subject to Title I of ERISA, (b) a "plan" as defined in and subject to Section 4975 of the Internal Revenue Code or (c) any Person whose assets include (for purposes of ERISA Section 3(42) or otherwise for purposes of Title I of ERISA or Section 4975 of the Internal Revenue Code) the assets of any such "employee benefit plan" or "plan".

"BHC Act Affiliate" has the meaning specified in Section 11.24(b).

"Borrower" and "Borrowers" means as defined in the introductory paragraph hereto.

"Borrower Agent" means as defined in Section 2.19.

"Borrower Request and Assumption Agreement" means as defined in Section 2.18(a).

"Borrowing" means (a) a borrowing consisting of simultaneous Loans of the same Type of Loan and, in the case of SOFR Loans, having the same Interest Period, or (b) a borrowing of Swingline Loans, as appropriate.

"Business Day" means any day, other than a Saturday, a Sunday, or any other day that is a legal holiday under the laws of the state of New York or is a day on which banking institutions located in such state are authorized, or are required by Applicable Law or any Governmental Act, to close; provided, that, with respect to notices and determinations in connection with, and payments of principal and/or interest on, SOFR Loans, such day is also a U.S. Government Securities Business Day.

"Capital Lease" means, as applied to any Person, any lease of any property (whether real, personal or mixed) by that Person as lessee that, in conformity with GAAP, is or should be accounted for as a capitalized lease or financing lease on the balance sheet of that Person.

"Cash Collateralize" means, to pledge and deposit with or deliver to the Administrative Agent, any Issuing Bank or the Swingline Lender, as applicable, as collateral for the Letter of Credit Obligations or Swingline Loans, as applicable, or obligations of Lenders to fund participations in respect thereof, cash or deposit account balances or, if the Administrative Agent, any Issuing Bank or Swingline Lender, as applicable, may agree in their sole discretion, other credit support, in each case pursuant to documentation in form and substance reasonably satisfactory to the Administrative Agent, such Issuing Bank and/or Swingline Lender, as applicable. "Cash Collateral" shall have a meaning correlative to the foregoing and shall include the proceeds of such cash collateral and other credit support.

"Cash Equivalents" means, as at any date of determination, any of the following: (a) marketable securities (i) issued or directly and unconditionally guaranteed as to interest and principal by the United States government, or (ii) issued by any agency of the United States the obligations of which are backed by the full faith and credit of the United States, in each case maturing within one (1) year after such date; (b) marketable direct obligations issued by any state of the United States or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one (1) year after such date and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's; (c) commercial paper maturing no more than one (1) year from the date of creation thereof and having, at the time of the acquisition thereof, a rating of at least A-1 from S&P or at least P-1 from Moody's; (d) certificates of deposit or bankers' acceptances maturing within one (1) year after such date and issued or accepted by any Lender or by any commercial bank organized under the laws of the United States or any state thereof or the District of Columbia that (i) is at least "adequately capitalized" (as defined in the regulations of its primary federal banking regulator), and (ii) has Tier 1 capital (as defined in such regulations) of not less than \$100,000,000; and (e) shares of any money market mutual fund that (i) has substantially all of its assets invested continuously in the types of investments referred to in clauses (a) and (b) above, (ii) has net assets of not less than \$500,000,000, and (iii) has the highest rating obtainable from either S&P or Moody's.

"Change in Law" means the occurrence, after the date of this Agreement, of any of the following: (a) the adoption or taking effect of any law, rule, regulation or treaty, (b) any change in any law, rule, regulation or treaty or in the administration, interpretation, implementation or application thereof by any Governmental Authority or (c) the making or issuance of any request, rule, guideline or directive (whether or not having the force of law) by any Governmental Authority; provided that notwithstanding anything herein to the contrary, (i) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, guidelines or directives thereunder or issued in connection therewith, (ii) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States or foreign regulatory authorities, in each case pursuant to Basel III and (iii) all requests, rules, guidelines or directives issued by a Governmental Authority in connection with a Lender's submission or re-submission of a capital plan under 12 C.F.R. § 225.8 or a Governmental Authority's assessment thereof shall in each case be deemed to be a "Change in Law", regardless of the date enacted, adopted or issued.

"Change of Control" means an event or series of events by which:

(a) any "person" or "group" (as such terms are used in Sections 13(d) and 14(d) of the Exchange Act of 1934, but excluding (i) any employee benefit plan of such person or its subsidiaries, and any person or entity acting in its capacity as trustee, agent or other fiduciary or administrator of any such plan, (ii) Paul Anthony Novelly ("Novelly"), (iii) St. Albans Global Management, LLLP ("St. Albans"), so long as Novelly or any one or several immediate family members of Novelly directly or indirectly control, and own substantially all of the Equity Interests in, St. Albans, (iv) any trust created by or for the benefit of Novelly and/or an immediate family member of Novelly ("Novelly Trust"), or (v) any company or other business entity controlled by a Novelly Trust) becomes the "beneficial owner" (as defined in Rules 13d-3 and 13d-5 under the Exchange Act of 1934, except that a person or group shall be deemed to have "beneficial ownership" of all securities that such person or group has the right to acquire (such right, an "option right"), whether such right is exercisable immediately or only after the passage of time), directly or indirectly, of 35% or more of the Equity Interests of the Parent entitled to vote for members of the board of directors or equivalent governing body of the Parent on a fully diluted basis (and taking into account all such securities that such person or group has the right to acquire pursuant to any option right); or

(b) during any period of twenty-four (24) consecutive months, a majority of the members of the board of directors or other equivalent governing body of the Parent cease to be composed of individuals (i) who were members of that board or equivalent governing body on the first day of such period, (ii) whose election or nomination to that board or equivalent governing body was approved by individuals referred to in clause (i) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body or (iii) whose election or nomination to that board or other equivalent governing body was approved by individuals referred to in clauses (i) and (ii) above constituting at the time of such election or nomination at least a majority of that board or equivalent governing body; or

(c) the Parent shall cease to own and control, of record and beneficially, directly, at least 95% of the outstanding Equity Interests of the Company.

"Collateral" means the collateral identified in, and at any time covered by, the Collateral Documents.

"Collateral Agent" means as defined in the introductory paragraph hereto, together with its successors and assigns.

"Collateral Documents" means the Pledge and Security Agreement and all other instruments, documents and agreements delivered by any Credit Party pursuant to this Agreement or any of the other Credit Documents in order to grant to the Collateral Agent, for the benefit of the holders of the Obligations, a Lien on any property of any Credit Party as security for the Obligations.

"Commitment Fee" means as defined in Section 2.10(a).

"Commitments" means the Revolving Commitments.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 *et seq.*).

"Communication" means this Agreement, any Credit Document and any document, amendment, approval, consent, information, notice, certificate, request, statement, disclosure or authorization related to any Credit Document.

"Compliance Certificate" means a Compliance Certificate substantially in the form of Exhibit 7.1(c).

"Conforming Changes" means, with respect to (a) the use and/or administration of, and/or any conventions associated with, SOFR, the SOFR Reference Rate (for any applicable tenor) and/or any SOFR-Based Rate (for any Interest Period), or (b) the use, administration, adoption and/or implementation of, and/or any conventions associated with, any Benchmark Replacement, in each case of the foregoing clauses (a) and (b), any technical, administrative and/or operational change(s) (including, without limitation, any such change(s) to the definition of "*Base Rate*" above, the definition of "*Business Day*" above, the definition of "*Daily Simple SOFR*" below, the definition of "*Interest Period*" below (or any similar or analogous definition, or the addition of an applicable concept of "interest period"), the definition of "*SOFR*" below, the definition of "*SOFR Reference Rate*" below, the definition of "*Term SOFR*" below, the definition of "*U.S. Government Securities Business Day*" below, the timing and frequency of determining rates and making payments of interest, the timing of delivery of any Funding Notices (or other requests for borrowing of Loans), the timing of delivery of any notices of optional reduction or termination of any Commitment(s), the timing of delivery of any notices of optional or voluntary prepayment of any Loans (or any other notices of prepayment of any Loans), the timing of delivery of any Conversion / Continuation Notices (or other notices of the continuation or conversion of Loans), the applicability and length of lookback periods, the applicability of Section 3.1(c), and any other technical, administrative and/or operational matters) that the Administrative Agent determines, in its reasonable discretion, may be appropriate to reflect the adoption and/or implementation of any such rate and/or to permit the use and administration thereof by the Administrative Agent in a manner substantially consistent with market practice (or, if the Administrative Agent determines, in its reasonable discretion, that (i) the adoption and/or implementation of, or of any portion of, such market practice is *not* administratively feasible for the Administrative Agent, or (ii) no market practice for the administration of any such rate exists, then, in each case of the foregoing clauses (i) and (ii), permit the use and administration thereof by the Administrative Agent in such other manner of administration as the Administrative Agent determines is reasonably necessary in connection with the administration of this Agreement and the other Credit Documents).

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

"Consolidated Capital Expenditures" means, for any period, for the Parent and its Subsidiaries on a consolidated basis, all capital expenditures, as determined in accordance with GAAP; provided, however, that Consolidated Capital Expenditures shall not include (a) expenditures made with proceeds of any Involuntary Disposition to the extent such expenditures are used to purchase property that is the same as or similar to the property subject to such Involuntary Disposition or (b) Permitted Acquisitions.

"Consolidated EBITDA" means, for any period, for the Parent and its Subsidiaries on a consolidated basis, an amount equal to Consolidated Net Income for such period plus the following to the extent deducted in calculating such Consolidated Net Income: (a) Consolidated Interest Charges for such period, (b) the provision for federal, state, local and foreign income taxes payable by the Parent and its Subsidiaries for such period, (c) non-cash asset impairment charges and (d) depreciation and amortization expense for such period.

"Consolidated Funded Debt" means Funded Debt of the Parent and its Subsidiaries on a consolidated basis determined in accordance with GAAP.

"Consolidated Interest Charges" means, for any period, for the Parent and its Subsidiaries on a consolidated basis, an amount equal to the sum of (a) all interest, premium payments, debt discount, fees, charges and related expenses in connection with borrowed money (including capitalized interest) or in connection with the deferred purchase price of assets, in each case to the extent treated as interest in accordance with GAAP, plus (b) the portion of rent expense with respect to such period under Capital Leases that is treated as interest in accordance with GAAP plus (c) the implied interest component of Synthetic Leases with respect to such period.

"Consolidated Interest Coverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated EBITDA for the period of the four (4) Fiscal Quarters most recently ended to (b) Consolidated Interest Charges for the period of the four (4) Fiscal Quarters most recently ended.

"Consolidated Leverage Ratio" means, as of any date of determination, the ratio of (a) Consolidated Funded Debt as of such date to (b) Consolidated EBITDA for the period of the four (4) Fiscal Quarters most recently ended.

"Consolidated Net Income" means, for any period, for the Parent and its Subsidiaries on a consolidated basis, the net income of the Parent and its Subsidiaries (excluding extraordinary gains) for that period, as determined in accordance with GAAP.

"Consolidated Total Assets" means, as of any date of determination for the Parent and its Subsidiaries on a consolidated basis, total assets as determined in accordance with GAAP.

"Contractual Obligation" means, as applied to any Person, any provision of any Security issued by that Person or of any indenture, mortgage, deed of trust, contract, undertaking, agreement or other instrument to which that Person is a party or by which it or any of its properties is bound or to which it or any of its properties is subject.

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

"Conversion/Continuation Date" means the effective date of a continuation or conversion, as the case may be, as set forth in the applicable Conversion/Continuation Notice.

"Conversion/Continuation Notice" means a Conversion/Continuation Notice substantially in the form of Exhibit 2.8.

"Covered Entity" has the meaning set forth in Section 11.24(b).

"Covered Party" has the meaning set forth in Section 11.24(a).

"Credit Date" means the date of a Credit Extension.

"Credit Document" means any of this Agreement, each Note, each Issuer Document, the Collateral Documents, any Guarantor Joinder Agreement, the Fee Letter, any Auto Borrow Agreement, any document executed and delivered by any Borrower and/or any other Credit Party pursuant to which any Aggregate Revolving Commitments are increased pursuant to Section 2.1(c), any documents or certificates executed by any Credit Party in favor of any Issuing Bank relating to Letters of Credit, and, to the extent evidencing or securing the Obligations, all other documents, instruments or agreements executed and delivered by any Credit Party for the benefit of any Agent, any Issuing Bank or any Lender in connection herewith or therewith, and including for the avoidance of doubt, any Guarantor Joinder Agreement (but specifically excluding any Secured Swap Agreements and Secured Treasury Management Agreements).

"Credit Extension" means the making of a Loan or the issuing or extending of a Letter of Credit.

"Credit Parties" means, collectively, each Borrower and each Guarantor.

"Daily Simple SOFR" means, for any date of determination, SOFR, with the conventions for such rate (which shall include a lookback) being established by the Administrative Agent in accordance with the conventions for such rate selected or recommended by the Relevant Governmental Body for determining "Daily Simple SOFR" for business loans; provided, that, (a) if the Administrative Agent decides that any such convention is *not* administratively feasible for the Administrative Agent, then the Administrative Agent may establish another convention in its reasonable discretion, and (b) if, at any time, Daily Simple SOFR (determined in accordance with such convention(s)) is *less than* the Floor, then Daily Simple SOFR shall be deemed to equal the Floor for all purposes of this Agreement and the other Credit Documents.

"Debtor Relief Laws" means the Bankruptcy Code, and all other liquidation, conservatorship, bankruptcy, assignment for the benefit of creditors, moratorium, rearrangement, receivership, insolvency, reorganization, or similar debtor relief laws of the United States or other applicable jurisdictions from time to time in effect.

"Default" means a condition or event that, after notice or lapse of time or both, would constitute an Event of Default.

"Default Rate" means an interest rate equal to, with respect to: (a) all Base Rate Loans (including, for the avoidance of doubt, Base Rate Loans the interest on which is determined by reference to clause (c) of the definition of "Base Rate" above) and Swingline Loans, the Base Rate *plus* the Applicable Margin applicable to Base Rate Loans, *plus* two percent (2.00%) per annum; (b) SOFR Loans, Adjusted Term SOFR *plus* the Applicable Margin applicable to SOFR Loans, *plus* two percent (2.00%) per annum; (c) all other Obligations, the Base Rate *plus* the Applicable Margin applicable to Base Rate Loans, *plus* two percent (2.00%) per annum.

"Default Right" has the meaning set forth in Section 11.24(b).

"Defaulting Lender" means, subject to Section 2.16(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within two (2) Business Days of the date such Loans were required to be funded hereunder, or (ii) pay to the Administrative Agent, any Issuing Bank, any Swingline Lender or any other Lender any other amount required to be paid by it hereunder (including in respect of its participation in Letters of Credit or Swingline Loans) within two (2) Business Days of the date when due, (b) has notified the Borrowers, the Administrative Agent or any Issuing Bank or Swingline Lender in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect, (c) has failed, within three (3) Business Days after written request by the Administrative Agent or the Borrowers, to confirm in writing to the Administrative Agent and the Borrowers that it will comply with its prospective funding obligations hereunder (provided that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and the Borrowers), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets, including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity, or (iii) become the subject of a Bail-In Action; provided that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.16(b)) upon delivery of written notice of such determination to the Borrowers, each Issuing Bank, each Swingline Lender and each Lender.

"Designated Jurisdiction" means any country or territory to the extent that such country or territory is the subject of any Sanction.

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

"Domestic Subsidiary" means any Subsidiary organized under the laws of the United States, any state thereof or the District of Columbia.

"Earn Out Obligations" means, with respect to an Acquisition, all obligations of any Borrower or any Subsidiary to make earn out or other contingency payments (including purchase price adjustments, non-competition and consulting agreements, or other indemnity obligations) pursuant to the documentation relating to such Acquisition. The amount of any Earn Out Obligations at the time of determination shall be the aggregate amount, if any, of such Earn Out Obligations that are required at such time under GAAP to be recognized as liabilities on the consolidated balance sheet of the Parent.

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

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

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

"Effective Date" means February 21, 2025.

"Electronic Record" and "Electronic Signature" shall have the meanings assigned to them, respectively, by 15 USC §7006, as it may be amended from time to time.

"Eligible Assignee" means any Person that meets the requirements to be an assignee under Section 11.5(b), subject to any consents and representations, if any as may be required therein.

"Environmental Claim" means any known investigation, written notice, notice of violation, written claim, action, suit, proceeding, written demand, abatement order or other written order or directive (conditional or otherwise), by any Person arising (a) pursuant to or in connection with any actual or alleged violation of any Environmental Law; (b) in connection with any Hazardous Material or any actual or alleged Hazardous Materials Activity; or (c) in connection with any actual or alleged damage, injury, threat or harm to human health, safety, natural resources or the environment.

"Environmental Permits" means all permits, licenses, orders, and authorizations which any Borrower or any of its Subsidiaries has obtained under Environmental Laws in connection with such Borrower's or any such Subsidiary's current Facilities or operations.

"Environmental Laws" means any and all current or future federal or state (or any subdivision of either of them), statutes, ordinances, orders, rules, regulations, judgments, Governmental Authorizations, or any other written requirements of Governmental Authorities relating to (a) any Hazardous Materials Activity; (b) the generation, use, storage, transportation or disposal of Hazardous Materials; or (c) protection of human health and the environment from pollution, in any manner applicable to any Credit Party or any of its Subsidiaries or their respective Facilities.

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

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

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended to the date hereof and from time to time hereafter, any successor statute, and the regulations thereunder.

"ERISA Affiliate" means, as applied to any Person, (a) any corporation which is a member of a controlled group of corporations within the meaning of Section 414(b) of the Internal Revenue Code of which that Person is a member; (b) any trade or business (whether or not incorporated) which is a member of a group of trades or businesses under common control within the meaning of Section 414(c) of the Internal Revenue Code of which that Person is a member; and (c) any member of an affiliated service group within the meaning of Section 414(m) or (o) of the Internal Revenue Code of which that Person, any corporation described in clause (a) above or any trade or business described in clause (b) above is a member.

"ERISA Event" means (a) a "reportable event" within the meaning of Section 4043 of ERISA and the regulations issued thereunder with respect to any Pension Plan (excluding those for which notice to the PBGC has been waived by regulation); (b) the failure to meet the minimum funding standard of Section 412 of the Internal Revenue Code with respect to any Pension Plan (whether or not waived in accordance with Section 412(c) of the Internal Revenue Code), the failure to make by its due date any minimum required contribution or any required installment under Section 430(j) of the Internal Revenue Code with respect to any Pension Plan or the failure to make by its due date any required contribution to a Multiemployer Plan; (c) the provision by the administrator of any Pension Plan pursuant to Section 4041(a)(2) of ERISA of a notice of intent to terminate such plan in a distress termination described in Section 4041(c) of ERISA; (d) the withdrawal from any Pension Plan with two (2) or more contributing sponsors or the termination of any such Pension Plan, in either case resulting in material liability pursuant to Section 4063 or 4064 of ERISA; (e) the institution by the PBGC of proceedings to terminate any Pension Plan, or the occurrence of any event or condition reasonably likely to constitute grounds under ERISA for the termination of, or the appointment of a trustee to administer, any Pension Plan; (f) the imposition of liability pursuant to Section 4062(a) or 4069 of ERISA or by reason of the application of Section 4212(c) of ERISA, each case reasonably likely to result in material liability; (g) the withdrawal of any Credit Party, any of its Subsidiaries or any of their respective ERISA Affiliates in a complete or partial withdrawal (within the meaning of Sections 4203 and 4205 of ERISA) from any Multiemployer Plan if such withdrawal is reasonably likely to result in material liability, or the receipt by any Credit Party, any of its Subsidiaries or any of their respective ERISA Affiliates of notice from any Multiemployer Plan that it is in insolvency pursuant to Section 4241 or 4245 of ERISA, or that it is in "critical" or "endangered" status within the meaning of Section 305 of ERISA, or that it intends to terminate or has terminated under Section 4041A or 4042 of ERISA, if such insolvency or termination is reasonably likely to result in material liability; (h) the imposition of fines, penalties, taxes or related charges under Chapter 43 of the Internal Revenue Code or under Section 409, Section 502(c), (i) or (l), or Section 4071 of ERISA in respect of any Pension Plan if such fines, penalties, taxes or related charges are reasonably likely to result in material liability; (i) the assertion of a material claim (other than routine claims for benefits and funding obligations in the ordinary course) against any Pension Plan other than a Multiemployer Plan or the assets thereof, or against any Person in connection with any Pension Plan such Person sponsors or maintains reasonably likely to result in material liability; (j) receipt from the Internal Revenue Service of a final written determination of the failure of any Pension Plan intended to be qualified under Section 401(a) of the Internal Revenue Code to qualify under Section 401(a) of the Internal Revenue Code, or the failure of any trust forming part of any such plan to qualify for exemption from taxation under Section 501(a) of the Internal Revenue Code; or (k) the imposition of a lien pursuant to Section 430(k) of the Internal Revenue Code or pursuant to Section 303(k) or 4068 of ERISA.

"Erroneous Payment" has the meaning set forth in Section 10.12(a).

"Erroneous Payment Deficiency Assignment" has the meaning set forth in Section 10.12(d).

"Erroneous Payment Impacted Class" has the meaning set forth in Section 10.12(d).

"Erroneous Payment Return Deficiency" has the meaning set forth in Section 10.12(d).

"Erroneous Payment Subrogation Rights" has the meaning set forth in Section 10.12(d).

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

"Event of Default" means each of the conditions or events set forth in Section 9.1.

"Exchange Act" means the Securities Exchange Act of 1934, as amended from time to time, and any successor statute.

"Excluded Property" means, with respect to the Borrowers and each other Credit Party, including any Person that becomes a Credit Party after the Effective Date as contemplated by Section 7.13, (a) any disbursement deposit account the funds in which are used solely for the payment of salaries and wages, employee benefits, workers' compensation and similar expenses, (b) any owned or leased personal property which is located outside of the United States, (c) any owned or leased real property, (d) any personal property (including, without limitation, motor vehicles and rolling stock) in respect of which perfection of a Lien is not (i) governed by the UCC or (ii) effected by appropriate evidence of the Lien being filed in either the United States Copyright Office or the United States Patent and Trademark Office, (e) the Equity Interests of any direct Foreign Subsidiary of any Borrower or any other Credit Party to the extent not required to be pledged to secure the Obligations pursuant to Section 7.11(a), (f) any property which, subject to the terms of Section 8.3, is subject to a Lien of the type described in Section 8.2(m) pursuant to documents which prohibit the Credit Parties from granting any other Liens in such property, (g) any property to the extent that the grant of a security interest therein would violate Applicable Laws, require a consent not obtained of any Governmental Authority, or constitute a breach of or default under, or result in the termination of or require a consent not obtained under, any contract, lease, license or other agreement evidencing or giving rise to such property, or result in the invalidation thereof or provide any party thereto with a right of termination (other than to the extent that any such term would be rendered ineffective pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the applicable UCC or any other Applicable Law or principles of equity), (h) any certificates, licenses and other authorizations issued by any Governmental Authority to the extent that Applicable Laws prohibit the granting of a security interest therein and (i) proceeds and products of any and all of the foregoing excluded property described in clauses (a) through (h) above only to the extent such proceeds and products would constitute property or assets of the type described in clauses (a) through (h) above; provided, however, that the security interest granted to the Collateral Agent under the Pledge and Security Agreement or any other Credit Document shall attach immediately to any asset of any Obligor (as defined in the Pledge and Security Agreement) at such time as such asset ceases to meet any of the criteria for "Excluded Property" described in any of the foregoing clauses (a) through (i) above.

"Excluded Swap Obligation" means, with respect to any Credit Party, any Swap Obligation if, and to the extent that, all or a portion of the Guaranty of such Credit Party of, or the grant under a Credit Document by such Credit Party of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act (or the application or official interpretation thereof) by virtue of such Credit Party's failure for any reason to constitute an "eligible contract participant" as defined in the Commodity Exchange Act (determined after giving effect to Section 4.8 hereof and any and all guarantees of such Credit Party's Swap Obligations by other Credit Parties) at the time the Guaranty of such Credit Party, or grant by such Credit Party a security interest, becomes effective with respect to such Swap Obligation. If a Swap Obligation arises under a Master Agreement governing more than one Swap Agreement, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to Swap Agreements for which such Guaranty or security interest becomes illegal.

"Excluded Taxes" means any of the following Taxes imposed on or with respect to a Recipient or required to be withheld or deducted from a payment to a Recipient, (a) Taxes imposed on or measured by net income (however denominated), franchise Taxes, and branch profits Taxes, in each case, (i) imposed as a result of such Recipient being organized under the laws of, or having its principal office or, in the case of any Lender, its applicable lending office located in, the jurisdiction imposing such Tax (or any political subdivision thereof) or (ii) that are Other Connection Taxes, (b) in the case of a Lender, U.S. federal withholding Taxes imposed on amounts payable to or for the account of such Lender with respect to an applicable interest in a Loan or Commitment pursuant to a law in effect on the date on which (i) such Lender acquires such interest in the Loan or Commitment (other than pursuant to an assignment request by the Borrowers under Section 2.17) or (ii) such Lender changes its lending office, except in each case to the extent that, pursuant to Section 3.3, amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its lending office, (c) Taxes attributable to such Recipient's failure to comply with Section 3.3(f) and (d) any U.S. federal withholding Taxes imposed under FATCA.

"Existing Credit Agreement" means as defined in the recitals hereto.

"Facility" means any real property including all buildings, fixtures or other improvements located on such real property now, hereafter or heretofore owned, leased, operated or used by any Borrower or any of its Subsidiaries or any of their respective predecessors.

"FATCA" means Sections 1471 through 1474 of the Internal Revenue Code as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof and any agreements entered into pursuant to Section 1471(b)(1) of the Internal Revenue Code.

"Federal Funds Rate" means for any day, the rate per annum (expressed, as a decimal, rounded upwards, if necessary, to the next higher one one-hundredth of one percent (1/100 of 1%)) equal to the weighted average of the rates on overnight federal funds transactions with members of the Federal Reserve System, as published by the Federal Reserve Bank of New York on the Business Day next succeeding such day; provided, (a) if such day is not a Business Day, the Federal Funds Rate for such day shall be such rate on such transactions on the next preceding Business Day as so published on the next succeeding Business Day, and (b) if no such rate is so published on such next succeeding Business Day, the Federal Funds Rate for such day shall be the average rate charged to Regions Bank or any other Lender selected by the Administrative Agent on such day on such transactions as determined by the Administrative Agent.

"Fee Letter" means that certain fee letter dated January 24, 2025 among the Parent, the Company, Regions Bank and Regions Capital Markets, a division of Regions Bank.

"Financial Officer Certification" means, with respect to the financial statements for which such certification is required, the certification of the chief financial officer of the Parent that such financial statements fairly present, in all material respects, the financial condition of the Parent and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated, subject to changes resulting from audit and normal year-end adjustments; provided that with respect to financial statements filed by a Credit Party with the SEC, the certification of the chief financial officer with respect to such financial statements included in the SEC filing may be relied upon by the Administrative Agent and the Lenders and shall be deemed to have satisfied any corresponding Financial Officer Certification requirement herein.

"Fiscal Quarter" means a fiscal quarter of any Fiscal Year.

"Fiscal Year" means the fiscal year of the Parent and its Subsidiaries ending on December 31 of each calendar year.

"Floor" shall mean a rate of interest equal to zero percent (0.00%) per annum (subject to the proviso to the last sentence of Section 3.1(g)(v)).

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

"Foreign Subsidiary" means any Subsidiary that is not a Domestic Subsidiary.

"FRBNY" shall mean the Federal Reserve Bank of New York (or any successor).

"Fronting Exposure" means, at any time there is a Defaulting Lender, (a) with respect to any Issuing Bank, such Defaulting Lender's Revolving Commitment Percentage of the outstanding Letter of Credit Obligations with respect to Letters of Credit issued by such Issuing Bank other than Letter of Credit Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or Cash Collateralized in accordance with the terms hereof, and (b) with respect to the Swingline Lender, such Defaulting Lender's Revolving Commitment Percentage of outstanding Swingline Loans made by such Swingline Lender other than Swingline Loans as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders.

"Fund" means any Person (other than a natural person) that is (or will be) engaged in making, purchasing, holding or otherwise investing in commercial loans and similar extensions of credit in the ordinary course of its activities.

"Funded Debt" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all obligations for borrowed money, whether current or long-term (including the Obligations hereunder), and all obligations evidenced by bonds, debentures, notes, loan agreements or other similar instruments;
- (b) all obligations in respect of the deferred purchase price of property or services (other than trade accounts payable in the ordinary course of business and, in each case, not past due for more than sixty (60) days after the date on which such trade account payable was created), including, without limitation, any Earn Out Obligations recognized as a liability on the balance sheet of the Parent and its Subsidiaries in accordance with GAAP;
- (c) all obligations under letters of credit (including standby and commercial), bankers' acceptances and similar instruments (including bank guaranties);
- (d) the Attributable Principal Amount of Capital Leases, Synthetic Leases and Securitization Transactions;
- (e) all preferred stock and comparable equity interests providing for mandatory redemption, sinking fund or other like payments;
- (f) all Funded Debt of others secured by (or for which the holder of such Funded Debt has an existing right, contingent or otherwise, to be secured by) any Lien on, or payable out of the proceeds of production from, property owned or acquired by such Person, whether or not the obligations secured thereby have been assumed;
- (g) all Guarantees in respect of Funded Debt of another Person; and
- (h) Funded Debt of any partnership or joint venture or other similar entity in which such Person is a general partner or joint venturer, and, as such, has personal liability for such obligations, but only to the extent there is recourse to such Person for payment thereof.

For purposes hereof, the amount of Funded Debt shall be determined (x) based on the outstanding principal amount in the case of borrowed money indebtedness under clause (a) and purchase money indebtedness and the deferred purchase obligations under clause (b), (y) based on the maximum amount available to be drawn in the case of letter of credit obligations and the other obligations under clause (c), and (z) based on the amount of Funded Debt that is the subject of the Guarantees in the case of Guarantees under clause (g).

"Funding Notice" means a notice substantially in the form of Exhibit 2.1.

"GAAP" means, subject to the limitations on the application thereof set forth in Section 1.2, accounting principles generally accepted in the United States in effect as of the date of determination thereof.

"Governmental Acts" means any act or omission, whether rightful or wrongful, of any present or future *de jure* or *de facto* government or Governmental Authority.

"Governmental Authority" means the government of the United States or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including any supra-national bodies such as the European Union or the European Central Bank and any group or body charged with setting financial accounting or regulatory capital rules or standards).

"Governmental Authorization" means any permit, license, authorization, plan, directive, consent order or consent decree of or from any Governmental Authority.

"Guarantee" means, as to any Person, (a) any obligation, contingent or otherwise, of such Person guaranteeing or having the economic effect of guaranteeing any Indebtedness or other obligation payable or performable by another Person (the "primary obligor") in any manner, whether directly or indirectly, and including any obligation of such Person, direct or indirect, (i) to purchase or pay (or advance or supply funds for the purchase or payment of) such Indebtedness or other obligation, (ii) to purchase or lease property, securities or services for the purpose of assuring the obligee in respect of such Indebtedness or other obligation of the payment or performance of such Indebtedness or other obligation, (iii) to maintain working capital, equity capital or any other financial statement condition or liquidity or level of income or cash flow of the primary obligor so as to enable the primary obligor to pay such Indebtedness or other obligation, or (iv) entered into for the purpose of assuring in any other manner the obligee in respect of such Indebtedness or other obligation of the payment or performance thereof or to protect such obligee against loss in respect thereof (in whole or in part), or (b) any Lien on any assets of such Person securing any Indebtedness or other obligation of any other Person, whether or not such Indebtedness or other obligation is assumed by such Person (or any right, contingent or otherwise, of any holder of such Indebtedness to obtain any such Lien). The amount of any Guarantee shall be deemed to be an amount equal to the stated or determinable amount of the related primary obligation, or portion thereof, in respect of which such Guarantee is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by the guaranteeing Person in good faith. The term "Guarantee" as a verb has a corresponding meaning.

"Guaranteed Obligations" means as defined in Section 4.1.

"Guarantor Joinder Agreement" means a guarantor joinder agreement substantially in the form of Exhibit 7.13 delivered by a Domestic Subsidiary of a Borrower pursuant to Section 7.13.

"Guarantors" means (a) each Person identified as a "Guarantor" on the signature pages hereto, (b) each other Person that joins as a Guarantor pursuant to Section 7.13, (c) with respect to (i) Secured Swap Obligations, (ii) Secured Treasury Management Obligations, and (iii) Swap Obligations of a Specified Credit Party (determined before giving effect to Sections 4.1 and 4.8) under the Guaranty hereunder, each Borrower, and (d) their successors and permitted assigns.

"Guaranty" means the Guarantee made by the Guarantors in favor of the Administrative Agent, the Lenders and the other holders of the Obligations pursuant to Section 4.

"Hazardous Materials" means any hazardous substances defined by the Comprehensive Environmental Response Compensation and Liability Act, 42 USCA 9601, et. seq., as amended ("CERCLA"), including any hazardous waste as defined under 40 C.F.R. Parts 260-270, gasoline or petroleum (including crude oil or any fraction thereof), asbestos or polychlorinated biphenyls.

"Hazardous Materials Activity" means any past, current, proposed or threatened activity, event or occurrence involving any Hazardous Materials, including the use, manufacture, possession, storage, holding, presence, existence, location, Release, threatened Release, discharge, placement, generation, transportation, processing, construction, treatment, abatement, removal, remediation, disposal, disposition or handling of any Hazardous Materials, and any corrective action or response action with respect to any of the foregoing.

"Highest Lawful Rate" means the maximum lawful interest rate, if any, that at any time or from time to time may be contracted for, charged, or received under Applicable Laws relating to any Lender which are currently in effect or, to the extent allowed under such Applicable Laws, which may hereafter be in effect and which allow a higher maximum nonusurious interest rate than Applicable Laws now allow.

"Immaterial Subsidiary" means, on any date, any Subsidiary of the Parent that (a) together with its respective Subsidiaries on a consolidated basis, had less than (i) five percent (5%) of Consolidated Total Assets and (ii) five percent (5%) of annual consolidated net revenues of the Parent and its Subsidiaries, in each case, as reflected on the most recent financial statements delivered pursuant to Section 7.1 prior to such date and (b) has been designated as such by the Parent in a written notice delivered to the Administrative Agent (other than any such Subsidiary as to which the Parent has revoked such designation by written notice to the Administrative Agent); provided that (x) at no time shall all Immaterial Subsidiaries (for the avoidance of doubt, together with their respective Subsidiaries on a consolidated basis) have an aggregate amount of consolidated total assets as determined in accordance with GAAP or annual consolidated net revenues in excess of five percent (5%) of Consolidated Total Assets or annual consolidated net revenues, respectively, of the Parent and its Subsidiaries (as reflected on the most recent financial statements delivered pursuant to Section 7.1 prior to such time) and (y) in no event shall any Subsidiary of the Parent that has become a Guarantor or Borrower be deemed to be an Immaterial Subsidiary.

"Indebtedness" means, as to any Person at a particular time, without duplication, all of the following, whether or not included as indebtedness or liabilities in accordance with GAAP:

- (a) all Funded Debt;
- (b) net obligations under any Swap Agreement;
- (c) all Guarantees in respect of Indebtedness of another Person; and
- (d) all Indebtedness of the types referred to in clauses (a) through (c) above of any partnership or joint venture (other than a joint venture that is itself a corporation or limited liability company) in which a Borrower or a Subsidiary is a general partner or joint venturer, unless such Indebtedness is expressly made non-recourse to such Borrower or such Subsidiary.

For purposes hereof, the amount of Indebtedness shall be determined based on Swap Termination Value in the case of net obligations under any Swap Agreement under clause (b).

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

"Indemnitee" means as defined in Section 11.2(b).

"Intellectual Property" means all trademarks, service marks, trade names, copyrights, patents, patent rights, franchises related to intellectual property, licenses related to intellectual property and other intellectual property rights.

"Interest Payment Date" means with respect to (a) any Base Rate Loan and any Swingline Loan, (i) the last Business Day of each calendar quarter, commencing on the first such date to occur after the Effective Date and (ii) the Revolving Commitment Termination Date; and (b) any SOFR Loan, (i) the last day of each Interest Period applicable to such Loan; provided, that, in the case of each Interest Period of longer than three (3) months "Interest Payment Date" shall also include each date that is three (3) months, or an integral multiple thereof, after the commencement of such Interest Period and (ii) the Revolving Commitment Termination Date.

"Interest Period" means, with respect to any SOFR Borrowing and/or any SOFR Loan, a period of one (1), three (3) or six (6) months (in each case, subject to availability), as selected by the applicable Borrower in the applicable Funding Notice or Conversion/Continuation Notice, (a) initially, commencing on the applicable Credit Date or Conversion/Continuation Date thereof, as the case may be, and (b) thereafter, commencing on the day on which the immediately preceding Interest Period expires, provided, that:

(i) if any Interest Period would otherwise end on a day that is *not* a Business Day, such Interest Period shall be extended to the next succeeding Business Day, unless such Business Day falls in another calendar month, in which case, such Interest Period shall end on the immediately preceding Business Day;

(ii) any Interest Period that begins on the last Business Day of a calendar month (or on a day for which there is no numerically corresponding day in the calendar month at the end of such Interest Period) shall, subject to clause (iii) of this definition, end on the last Business Day of such calendar month; and

(iii) no Interest Period with respect to any Revolving Loans, to the extent outstanding as SOFR Loans, shall extend beyond the Revolving Commitment Termination Date.

"Interest Rate Determination Date" means, with respect to any Interest Period, the date that is two (2) Business Days prior to the first (1st) day of such Interest Period.

"Internal Revenue Code" means the Internal Revenue Code of 1986.

"Investment" means, as to any Person, any direct or indirect acquisition or investment by such Person, whether by means of (a) the purchase or other acquisition of Equity Interests of another Person, (b) a loan, advance or capital contribution to, Guarantee or assumption of debt of, or purchase or other acquisition of any other debt or equity participation or interest in, another Person, including any partnership or joint venture interest in such other Person and any arrangement pursuant to which the investor Guarantees Indebtedness of such other Person, or (c) an Acquisition. For purposes of covenant compliance, the amount of any Investment shall be the amount actually invested, without adjustment for subsequent increases or decreases in the value of such Investment.

"Involuntary Disposition" means the receipt by any Borrower or any of its Subsidiaries of any cash insurance proceeds or condemnation awards payable by reason of theft, loss, physical destruction or damage, taking or similar event with respect to any of its Property.

"IRS" means the United States Internal Revenue Service.

"ISP" means, with respect to any Letter of Credit, the "International Standby Practices 1998" published by the Institute of International Banking Law & Practice, Inc. (or such later version thereof as may be in effect at the time of issuance of such Letter of Credit).

"Issuance Notice" means an Issuance Notice substantially in the form of Exhibit 2.3.

"Issuer Documents" means with respect to any Letter of Credit, the Letter of Credit Application, and any other document, agreement and instrument entered into by any Issuing Bank and any Borrower (or any Subsidiary) or in favor of such Issuing Bank and relating to such Letter of Credit.

"Issuing Bank" means Regions Bank, in its capacity as issuer of Letters of Credit hereunder, together with its permitted successors and assigns in such capacity.

"Lender" means each financial institution with a Revolving Commitment, together with its successors and permitted assigns. The initial Lenders are identified on the signature pages hereto and are set forth on Appendix A.

"Lender Parties" and "Lender Recipient Parties" mean, collectively, the Lenders, the Swingline Lender and the Issuing Bank.

"Letter of Credit" means any letter of credit issued hereunder.

"Letter of Credit Application" means an application and agreement for the issuance or amendment of a Letter of Credit in the form from time to time in use by the applicable Issuing Bank.

"Letter of Credit Borrowing" means any Credit Extension resulting from a drawing under any Letter of Credit that has not been reimbursed or refinanced as a Borrowing of Revolving Loans.

"Letter of Credit Fees" means as defined in Section 2.10(b)(i).

"Letter of Credit Obligations" means, at any time, the sum of (a) the maximum amount available to be drawn under Letters of Credit then outstanding, assuming compliance with all requirements for drawings referenced therein, plus (b) the aggregate amount of all drawings under Letters of Credit that have not been reimbursed by the Borrowers, including Letter of Credit Borrowings. For all purposes of this Agreement, (i) amounts available to be drawn under Letters of Credit will be calculated as provided in Section 1.3(i), and (ii) if a Letter of Credit has expired by its terms but any amount may still be drawn thereunder by reason of the operation of Rule 3.14 of the ISP, such Letter of Credit shall be deemed to be "outstanding" in the amount so remaining available to be drawn.

"Letter of Credit Sublimit" means, as of any date of determination, the lesser of (a) THIRTY MILLION DOLLARS (\$30,000,000) and (b) the aggregate unused amount of the Revolving Commitments then in effect.

"Lien" means (a) any lien, mortgage, pledge, assignment, security interest, charge or encumbrance of any kind (including any agreement to give any of the foregoing, any conditional sale or other title retention agreement, and any lease or license in the nature thereof) and any option, trust or other preferential arrangement having the practical effect of any of the foregoing, and (b) in the case of Securities, any purchase option, call or similar right of a third party with respect to such Securities.

"Loan" means all Revolving Loans and all Swingline Loans, in the aggregate or any of them, as the context shall require.

"Margin Stock" means as defined in Regulation U of the Board of Governors of the Federal Reserve System as in effect from time to time.

"Marketable Securities" means, at any date, securities that would, in conformity with GAAP, be categorized as "Marketable Securities" on a consolidated balance sheet of the Parent and its Subsidiaries at such date.

"Master Agreement" means as defined in the definition of "Swap Agreement".

"Material Adverse Effect" means any effect, event, condition, action, omission, change or state of facts that, individually or in the aggregate, has resulted in, or could reasonably be expected to result in, a material adverse effect with respect to (a) the business operations, properties, assets, or financial condition of the Parent and its Subsidiaries taken as a whole; (b) the ability of the Credit Parties, taken as a whole, to fully and timely perform the Obligations; (c) the legality, validity, binding effect, or enforceability against a Credit Party of any material term of any Credit Document to which it is a party; (d) the value of the whole or any material part of the Collateral or the priority of Liens in the whole or any material part of the Collateral in favor of the Collateral Agent for the holders of the Obligations; or (e) the rights, remedies and benefits available to, or conferred upon, any Agent and any Lender or any holder of Obligations under any Credit Document.

"Material Contract" means any Contractual Obligation to which any Borrower or any of its Subsidiaries, or any of their respective assets, are bound (other than those evidenced by the Credit Documents) for which breach, nonperformance, cancellation or failure to renew could reasonably be expected to have a Material Adverse Effect.

"Material Domestic Subsidiary" means any Domestic Subsidiary that is not an Immaterial Subsidiary.

"Minimum Liquidity" means, as of any date of determination, on an aggregate basis for all Credit Parties, the sum of (a) unrestricted and unencumbered (other than by (x) Liens in favor of the Administrative Agent or Collateral Agent or (y) statutory Liens in favor of banks solely to the extent permitted under clause (r) of Section 8.2) cash maintained in accounts located in the United States, (b) Cash Equivalents and (c) the fair market value of the Marketable Securities.

"Moody's" means Moody's Investor Services, Inc., together with its successors.

"Multiemployer Plan" means any "multiemployer plan" as defined in Section 3(37) of ERISA which is sponsored, maintained or contributed to by, or required to be contributed to by, any Credit Party or any of its ERISA Affiliates or with respect to which any Credit Party or any of its ERISA Affiliates previously sponsored, maintained or contributed to or was required to contribute to, and still has liability.

"New Borrower Notice" means as defined in Section 2.18.

"Non-Consenting Lender" means as defined in Section 2.17.

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Note" means a Revolving Loan Note or a Swingline Note.

"Notice" means a Funding Notice, an Issuance Notice or a Conversion/Continuation Notice.

"Obligations" means all obligations, indebtedness and other liabilities of every nature of (a) each Credit Party from time to time owed to the Agents (including former Agents), any Issuing Bank, the Lenders (including former Lenders in their capacity as such) or any of them, the Qualifying Swap Banks and the Qualifying Treasury Management Banks, under any Credit Document, Secured Swap Agreement or Secured Treasury Management Agreement, and (b) each Subsidiary of any Credit Party from time to time owed to the Qualifying Swap Banks and the Qualifying Treasury Management Banks under any Secured Swap Agreement or Secured Treasury Management Agreement, in each case, together with all renewals, extensions, modifications or refinancings of any of the foregoing, whether for principal, interest (including fees and interest which, but for the filing of a petition in bankruptcy with respect to such Credit Party or Subsidiary of a Credit Party, would have accrued on any Obligation, whether or not a claim is allowed against such Credit Party or Subsidiary of a Credit Party for such interest or fees in the related bankruptcy proceeding), reimbursement of amounts drawn under Letters of Credit, payments for early termination of Swap Agreements, fees, expenses, indemnification or otherwise; provided, however, that the "Obligations" of a Credit Party shall exclude any Excluded Swap Obligations with respect to such Credit Party. Notwithstanding anything to the contrary contained herein or under any of the other Credit Documents, the obligations of any Credit Party or any Subsidiary of a Credit Party under any Secured Swap Agreement or any Secured Treasury Management Agreement shall be secured and guaranteed pursuant to the Credit Documents only to the extent that, and for so long as, the Obligations (other than any Obligations with respect to Secured Swap Agreements and Secured Treasury Management Agreements) are so secured and guaranteed.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control.

"Organizational Documents" means (a) with respect to any corporation, its certificate or articles of incorporation or organization, as amended, and its by-laws, as amended, (b) with respect to any limited partnership, its certificate of limited partnership, as amended, and its partnership agreement, as amended, (c) with respect to any general partnership, its partnership agreement, as amended, and (d) with respect to any limited liability company, its articles of organization, certificate of formation or comparable documents, as amended, and its operating agreement, as amended. In the event any term or condition of this Agreement or any other Credit Document requires any Organizational Document to be certified by a secretary of state or similar governmental official, the reference to any such "Organizational Document" shall only be to a document of a type customarily certified by such governmental official.

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

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Credit Document, except any such Taxes that are Other Connection Taxes imposed with respect to an assignment (other than an assignment made pursuant to [Section 2.17](#)).

"Outstanding Amount" means (a) with respect to Revolving Loans and Swingline Loans on any date, the aggregate outstanding principal amount thereof after giving effect to any Borrowings and prepayments or repayments of Revolving Loans and Swingline Loans, as the case may be, occurring on such date; and (b) with respect to any Letter of Credit Obligations on any date, the aggregate outstanding amount of such Letter of Credit Obligations on such date after giving effect to any Credit Extension of a Letter of Credit occurring on such date and any other changes in the amount of the Letter of Credit Obligations as of such date, including as a result of any reimbursements by the Borrowers of any drawing under any Letter of Credit.

"Parent" means as defined in the introductory paragraph hereto.

"Participant" means as defined in Section 11.5(d).

"Participant Register" means as defined in Section 11.5(d).

"Patriot Act" means as defined in Section 6.15(f).

"Payment Recipient" has the meaning provided for such term in Section 10.12(a).

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Pension Plan" means any "employee pension benefit plan" as defined in Section 3(2) of ERISA other than a Multiemployer Plan, which is subject to Section 412 of the Internal Revenue Code or Section 302 of ERISA and which is sponsored, maintained or contributed to by, or required to be contributed to by, any Credit Party or any of its ERISA Affiliates or with respect to which any Credit Party or any of its ERISA Affiliates previously sponsored, maintained or contributed to, or was required to contribute to, and still has liability.

"Periodic Term SOFR Determination Date" shall have the meaning set forth in the definition of "*Term SOFR*" below.

"Permitted Acquisition" means any Acquisition that satisfies the following conditions:

(a) the Property acquired (or the Property of the Person acquired) in such Acquisition is a business or is used or useful in a business permitted under Section 8.14;

(b) in the case of an Acquisition of the Equity Interests, the board of directors (or other comparable governing body) of such other Person shall have approved the Acquisition;

(c) (i) no Default or Event of Default shall exist and be continuing immediately before or immediately after giving effect thereto, (ii) the representations and warranties made each of the Credit Parties in each Credit Document shall be true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) as if made on the date of such Acquisition (after giving effect thereto) except to the extent such representations and warranties expressly relate to an earlier date, (iii) after giving effect thereto on a Pro Forma Basis, (A) the Credit Parties shall be in compliance with the financial covenant set forth in clause (b) of Section 8.8 and (B) the Consolidated Leverage Ratio shall not exceed 2.75 to 1.0, (iv) after giving effect thereto, the Minimum Liquidity shall be at least \$50,000,000 and (v) at least two (2) Business Days prior to the consummation of such Acquisition, an Authorized Officer of the Parent shall provide a compliance certificate, in form and detail reasonably satisfactory to the Administrative Agent, affirming compliance with each of the items set forth in clauses (a) through (c) hereof.

"Permitted Liens" means each of the Liens permitted pursuant to Section 8.2.

"Permitted Refinancing" means any extension, renewal or replacement of any existing Indebtedness so long as any such renewal, refinancing and extension of such Indebtedness (a) has market terms and conditions, (b) has an average life to maturity that is greater than that of the Indebtedness being extended, renewed or refinanced, (c) does not include an obligor that was not an obligor with respect to the Indebtedness being extended, renewed or refinanced, (d) remains subordinated, if the Indebtedness being refinanced or extended was subordinated to the prior payment of the Obligations, (e) does not exceed in a principal amount the Indebtedness being renewed, extended or refinanced plus reasonable fees and expenses incurred in connection therewith, and (f) is not incurred, created or assumed, if any Default or Event of Default has occurred and continues to exist or would result therefrom.

"Person" means any natural person, corporation, limited liability company, trust, joint venture, association, company, partnership, Governmental Authority or other entity.

"Platform" means as defined in Section 11.1(d).

"Pledge and Security Agreement" means the second amended and restated pledge and security agreement dated as of the Effective Date given by the Credit Parties, as pledgors, to the Collateral Agent for the benefit of the holders of the Obligations, and any other pledge agreements or security agreements that may be given by any Person pursuant to the terms hereof, in each case as the same may be amended and modified from time to time.

"Prime Rate" has the meaning set forth in the definition of "Base Rate" above.

"Principal Office" means, for the Administrative Agent, the Swingline Lender and each Issuing Bank, such Person's "Principal Office" as set forth on Appendix B, or such other office as it may from time to time designate in writing to the Borrowers and each Lender.

"Pro Forma Basis" means, for purposes of calculating the financial covenants set forth in Section 8.8 (including for purposes of determining the Applicable Margin), that any Asset Sale, Involuntary Disposition, Acquisition, increase in the Aggregate Revolving Commitments pursuant to Section 2.1(c), incurrence of Indebtedness, Restricted Payment or any other transaction or event required to be calculated on a Pro Forma Basis hereunder shall be deemed to have occurred as of the first day of the most recent four (4) Fiscal Quarter period preceding the date of such transaction for which the Parent was required to deliver financial statements pursuant to Section 7.1(a) or (b). In connection with the foregoing, (a)(i) with respect to any Asset Sale or Involuntary Disposition, income statement and cash flow statement items (whether positive or negative) attributable to the property disposed of shall be excluded to the extent relating to any period occurring prior to the date of such transaction and (ii) with respect to any Acquisition, income statement items attributable to the Person or property acquired shall be included to the extent relating to any period applicable in such calculations to the extent (A) such items are not otherwise included in such income statement items for the Parent and its Subsidiaries in accordance with GAAP or in accordance with any defined terms set forth in Section 1.1 and (B) such items are supported by financial statements or other information satisfactory to the Administrative Agent and (b) any Indebtedness incurred or assumed by any Borrower or any Subsidiary (including the Person or property acquired) in connection with such transaction (i) shall be deemed to have been incurred as of the first day of the applicable period and (ii) if such Indebtedness has a floating or formula rate, shall have an implied rate of interest for the applicable period for purposes of this definition determined by utilizing the rate which is or would be in effect with respect to such Indebtedness as at the relevant date of determination.

"Property" means an interest of any kind in any property or asset, whether real, personal or mixed, and whether tangible or intangible.

"PTE" means a prohibited transaction class exemption issued by the U.S. Department of Labor, as any such exemption may be amended from time to time.

"QFC" means as defined in [Section 11.24\(b\)](#).

"QFC Credit Support" means as defined in [Section 11.24](#).

"Qualified ECP Guarantor" means, in respect of any Swap Obligation, each Credit Party that, at the time the Guaranty (or grant of security interest, as applicable) becomes or would become effective with respect to such Swap Obligation, has total assets exceeding \$10,000,000 or such other Credit Party as constitutes an "eligible contract participant" under the Commodity Exchange Act and which may cause another Person to qualify as an "eligible contract participant" with respect to such Swap Obligation at such time by entering into a keepwell under Section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

"Qualifying Swap Bank" means any Person in its capacity as a party to a Swap Agreement with a Credit Party or a Subsidiary of a Credit Party that (a) at the time it enters into a Swap Agreement, is a Lender or an Affiliate of a Lender, or (b) in the case of a Swap Agreement in effect on or prior to the Effective Date, is, as of the Effective Date or within thirty (30) days thereafter, a Lender or an Affiliate of a Lender, and, in each such case (other than where such Person is the Administrative Agent or an Affiliate of the Administrative Agent) shall have provided a Secured Party Designation Notice to the Administrative Agent within thirty (30) days of entering into the Swap Agreement or otherwise becoming eligible in respect thereof. For purposes hereof, the term "Lender" shall be deemed to include the Administrative Agent.

"Qualifying Treasury Management Bank" means any Person in its capacity as a party to a Treasury Management Agreement with a Credit Party or a Subsidiary of a Credit Party that (a) at the time it enters into a Treasury Management Agreement, is a Lender or an Affiliate of a Lender, or (b) in the case of a Treasury Management Agreement in effect on or prior to the Effective Date, is, as of the Effective Date or within thirty (30) days thereafter, a Lender or an Affiliate of a Lender, and, in each such case (other than where such Person is the Administrative Agent or an Affiliate of the Administrative Agent), shall have provided a Secured Party Designation Notice to the Administrative Agent within thirty (30) days of entering into the Treasury Management Agreement or otherwise becoming eligible in respect thereof. For purposes hereof, the term "Lender" shall be deemed to include the Administrative Agent.

"Real Estate Asset" means, at any time of determination, any interest (fee, leasehold or otherwise) then owned by any Borrower or any of its Subsidiaries in any real property.

"Recipient" means (a) the Administrative Agent, (b) any Lender and (c) any Issuing Bank, as applicable.

"Refunded Swingline Loans" means as defined in [Section 2.2\(b\)\(iii\)](#).

"Regions" shall mean Regions Bank (together with its successors).

"Register" means as defined in [Section 11.5\(c\)](#).

"Reimbursement Date" means as defined in [Section 2.3\(d\)](#).

"Related Parties" means, with respect to any Person, such Person's Affiliates and the partners, directors, officers, employees, agents, trustees, administrators, managers, advisors and representatives of such Person and of such Person's Affiliates.

"Release" means any release, spill, emission, leaking, pumping, pouring, injection, escaping, deposit, disposal, discharge, dispersal, dumping, leaching or migration of any Hazardous Material into the indoor or outdoor environment (including the abandonment or disposal of any barrels, containers or other closed receptacles containing any Hazardous Material), including the movement of any Hazardous Material through the air, soil, surface water or groundwater.

"Relevant Governmental Body" shall mean the Federal Reserve Board and/or the FRBNY, or a committee officially endorsed or convened by the Federal Reserve Board and/or the FRBNY, or any successor thereto.

"Removal Effective Date" means as defined in Section 10.6(b).

"Required Lenders" means, as of any date of determination, at least two (2) Lenders having Total Credit Exposure representing more than fifty percent (50%) of the Total Credit Exposures of all Lenders; provided that (a) the Total Credit Exposure of any Defaulting Lender shall be excluded for purposes of making a determination of Required Lenders and (b) if there is only one (1) Lender, "Required Lenders" shall mean such Lender.

"Resignation Effective Date" means as defined in Section 10.6(a).

"Resolution Authority" means an EEA Resolution Authority or, with respect to any UK Financial Institution, a UK Resolution Authority.

"Restricted Payment" means any dividend or other distribution (whether in cash, securities or other property) with respect to any Equity Interests of any Borrower or any Subsidiary, or any payment (whether in cash, securities or other property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests or on account of any return of capital to the Parent's stockholders, partners or members (or the equivalent Person thereof), or any setting apart of funds or property for any of the foregoing.

"Revolving Commitment" means the commitment of a Lender to make or otherwise fund any Revolving Loan and to acquire participations in Letters of Credit and Swingline Loans hereunder and "Revolving Commitments" means such commitments of all Lenders in the aggregate. The amount of each Lender's Revolving Commitment, if any, is set forth on Appendix A or in the applicable Assignment Agreement or other agreement pursuant to which it becomes a party hereto, subject to any increase, adjustment or reduction pursuant to the terms and conditions hereof.

"Revolving Commitment Percentage" means, for each Lender, a fraction (expressed as a percentage carried to the ninth decimal place), the numerator of which is such Lender's Revolving Commitment and the denominator of which is the Aggregate Revolving Commitments. The initial Revolving Commitment Percentages are set forth on Appendix A.

"Revolving Commitment Period" means the period from and including the Effective Date to the earlier of (a) (i) in the case of Revolving Loans and Swingline Loans, the Revolving Commitment Termination Date or (ii) in the case of the Letters of Credit, the expiration date thereof, or (b) in each case, the date on which the Revolving Commitments shall have been terminated as provided herein.

"Revolving Commitment Termination Date" means the earliest to occur of (a) February 21, 2030; (b) the date the Revolving Commitments are permanently reduced to zero pursuant to Section 2.11(b); and (c) the date of the termination of the Revolving Commitments pursuant to Section 9.2.

"Revolving Credit Exposure" means, as to any Lender at any time, the aggregate principal amount at such time of its outstanding Revolving Loans and such Lender's participation in Letter of Credit Obligations and Swingline Loans at such time.

"Revolving Loan" means a Loan made by a Lender to any Borrower pursuant to Section 2.1(a).

"Revolving Loan Note" means a promissory note in the form of Exhibit 2.5-1, as it may be amended, supplemented or otherwise modified from time to time.

"Revolving Obligations" means the Revolving Loans, the Letter of Credit Obligations and the Swingline Loans.

"S&P" means Standard & Poor's Financial Services LLC, a subsidiary of S&P Global, Inc., together with its successors.

"Sale and Leaseback Transaction" means, with respect to any Borrower or any Subsidiary, any arrangement, directly or indirectly, with any Person (other than a Credit Party) whereby such Borrower or such Subsidiary shall sell or transfer any property, real or personal, used or useful in its business, whether now owned or hereafter acquired, and thereafter rent or lease such property or other property that it intends to use for substantially the same purpose or purposes as the property being sold or transferred.

"Sanctioned Entity" means (a) a country, territory or a government of a country or territory, (b) an agency of the government of a country or territory, or (c) an organization directly or indirectly owned or controlled by a country, territory or its government, that is subject to Sanctions.

"Sanctioned Person" means (a) a Person named on the list of "Specially Designated Nationals" or any other Sanctions related list of designated Persons maintained by OFAC, the U.S. Department of State, the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Entity or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

"Sanction(s)" means economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by OFAC or the U.S. Department of State, (b) the United Nations Security Council, (c) the European Union, (d) any European Union member state, (e) His Majesty's Treasury of the United Kingdom or (f) any other relevant sanctions authority.

"SEC" means the United States Securities and Exchange Commission.

"Secured Party Designation Notice" means a notice in the form of Exhibit 1.1 (or other writing in form and substance satisfactory to the Administrative Agent) from a Qualifying Swap Bank or a Qualifying Treasury Management Bank to the Administrative Agent that it holds Obligations entitled to share in the guaranties and collateral interests provided herein in respect of a Secured Swap Agreement or Secured Treasury Management Agreement, as appropriate.

"Secured Swap Agreement" means any Swap Agreement between any Credit Party or any of its Subsidiaries, on the one hand, and a Qualifying Swap Bank, on the other hand. For the avoidance of doubt, a holder of Obligations in respect of a Secured Swap Agreement shall be subject to the provisions of Sections 9.3 and 10.10.

"Secured Swap Obligations" means all obligations owing to a Qualifying Swap Bank in connection with any Secured Swap Agreement including any and all cancellations, buy backs, reversals, terminations or assignments of any Secured Swap Agreement, any and all renewals, extensions and modifications of any Secured Swap Agreement and any and all substitutions for any Secured Swap Agreement, including all fees, costs, expenses and indemnities, whether primary, secondary, direct, fixed or otherwise (including any monetary obligations incurred during the pendency of any bankruptcy or insolvency proceedings, regardless of whether allowed or allowable in such bankruptcy or insolvency proceedings), in each case, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising.

"Secured Treasury Management Agreement" means any Treasury Management Agreement between any Credit Party or any of its Subsidiaries, on the one hand, and a Qualifying Treasury Management Bank, on the other hand. For the avoidance of doubt, a holder of Obligations in respect of a Secured Treasury Management Agreement shall be subject to the provisions of Sections 9.3 and 10.10.

"Secured Treasury Management Obligations" means all obligations owing to a Qualifying Treasury Management Bank under a Secured Treasury Management Agreement, including all fees, costs, expenses and indemnities, whether primary, secondary, direct, fixed or otherwise (including any monetary obligations incurred during the pendency of any bankruptcy or insolvency proceedings, regardless of whether allowed or allowable in such bankruptcy or insolvency proceedings), in each case, whether direct or indirect (including those acquired by assumption), absolute or contingent, due or to become due, now existing or hereafter arising.

"Securities" means any stock, shares, partnership interests, limited liability company interests, voting trust certificates, certificates of interest or participation in any profit-sharing agreement or arrangement (e.g., stock appreciation rights), options, warrants, bonds, debentures, notes, or other evidences of indebtedness, secured or unsecured, convertible, subordinated or otherwise, or in general any instruments commonly known as "securities" or any certificates of interest, shares or participations in temporary or interim certificates for the purchase or acquisition of, or any right to subscribe to, purchase or acquire, any of the foregoing.

"Securitization Transaction" means any financing or factoring or similar transaction (or series of such transactions) entered by any Borrower or any of its Subsidiaries pursuant to which such Borrower or such Subsidiary may sell, convey or otherwise transfer, or grant a security interest in, accounts, payments, receivables, rights to future lease payments or residuals or similar rights to payment (the "Securitization Receivables") to a special purpose subsidiary or affiliate (a "Securitization Subsidiary") or any other Person.

"SIFMA" shall mean the Securities Industry and Financial Markets Association (or any successor thereto).

"SOFR" means, with respect to any Business Day, a rate per annum equal to the secured overnight financing rate for such Business Day published by the SOFR Administrator on the SOFR Administrator's Website on the immediately succeeding U.S. Government Securities Business Day; provided, that, if such published rate is subsequently corrected and provided by the SOFR Administrator, or on the SOFR Administrator's Website, within the *longer* of (i) one (1) hour of the time when such rate was first published, and (ii) the republication cut-off time for SOFR, if any, as specified by the SOFR Administrator in the applicable SOFR benchmark methodology, then "SOFR" shall instead mean such secured overnight financing rate for such Business Day subject to those corrections.

"SOFR Adjustment" means, a percentage equal to 0.10000% (10.000 basis points) per annum

"SOFRA Administrator" means the FRBNY (or any successor administrator of the secured overnight financing rate).

"SOFRA Administrator's Website" means the website of the FRBNY currently at <https://www.newyorkfed.org>, or any successor source for the secured overnight financing rate identified as such by the SOFR Administrator from time to time.

"SOFRA-Based Rate" means each of Adjusted Term SOFR for any Interest Period, Daily Simple SOFR and Term SOFR for any Interest Period.

"SOFRA Borrowing" means a Borrowing, the Loans in respect of which bear interest at a rate determined by reference to Adjusted Term SOFR for any available Interest Period, other than pursuant to clause (c) of the definition of "Base Rate" above.

"SOFRA Loan" shall mean a Loan bearing interest at a rate determined by reference to Adjusted Term SOFR for any available Interest Period, other than pursuant to clause (c) of the definition of "Base Rate" above.

"SOFRA Reference Rate" means the rate per annum determined by the Administrative Agent as the forward-looking term rate based on SOFR for an applicable tenor.

"Solvent" or "Solvency" means, with respect to any Person as of a particular date, that on such date (a) such Person is able to pay its debts and other liabilities, contingent obligations and other commitments as they mature in the ordinary course of business, (b) such Person does not intend to, and does not believe that it will, incur debts or liabilities beyond such Person's ability to pay as such debts and liabilities mature in their ordinary course, (c) such Person is not engaged in a business or a transaction, and is not about to engage in a business or a transaction, for which such Person's property would constitute unreasonably small capital after giving due consideration to the prevailing practice in the industry in which such Person is engaged or is to engage, (d) the fair value of the property of such Person is greater than the total amount of liabilities, including, without limitation, contingent liabilities, of such Person and (e) the present fair salable value of the assets of such Person is not less than the amount that will be required to pay the probable liability of such Person on its debts as they become absolute and matured. In computing the amount of contingent liabilities at any time, it is intended that such liabilities will be computed at the amount which, in light of all the facts and circumstances existing at such time, represents the amount that can reasonably be expected to become an actual or matured liability.

"Specified Credit Party" means, any Credit Party that is, at the time on which the Guaranty (or grant of security interest, as applicable) becomes effective with respect to a Swap Obligation, a corporation, partnership, proprietorship, organization, trust or other entity that would not be an "eligible contract participant" under the Commodity Exchange Act at such time but for the effect of Section 4.8.

"Subsidiary" means, with respect to any Person, any corporation, partnership, limited liability company, association, joint venture or other business entity of which more than fifty percent (50%) of the Voting Stock is at the time owned or controlled, directly or indirectly, by that Person, or the accounts of which would be consolidated with those of such Person in its consolidated financial statements in accordance with GAAP, if such statements were prepared as of such date, or one or more of the other Subsidiaries of that Person or a combination thereof; provided, in determining the percentage of ownership interests of any Person controlled by another Person, no ownership interest in the nature of a "qualifying share" of the former Person shall be deemed to be outstanding. Unless otherwise provided, "Subsidiary" shall refer to a Subsidiary of the Parent.

"Supported OFC" means as defined in Section 11.24.

"Swap Agreement" means (a) any and all rate swap transactions, basis swaps, credit derivative transactions, forward rate transactions, commodity swaps, commodity options, forward commodity contracts, equity or equity index swaps or options, bond or bond price or bond index swaps or options or forward bond or forward bond price or forward bond index transactions, interest rate options, forward foreign exchange transactions, currency swap transactions, cross-currency rate swap transactions, currency options, cap transactions, floor transactions, collar transactions, spot contracts, or any other similar transactions or any combination of any of the foregoing (including any options or warrants to enter into any of the foregoing), whether or not any such transaction is governed by, or otherwise subject to, any master agreement or any netting agreement, and (b) any and all transactions or arrangements of any kind, and the related confirmations, which are subject to the terms and conditions of, or governed by, any form of master agreement (or similar documentation) published from time to time by the International Swaps and Derivatives Association, Inc., any International Foreign Exchange Master Agreement, or any other master agreement (any such agreement or documentation, together with any related schedules, a "Master Agreement"), including any such obligations or liabilities under any Master Agreement.

"Swap Obligation" means with respect to any Credit Party, any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of Section 1a(47) of the Commodity Exchange Act.

"Swap Termination Value" means, in respect of any one or more Swap Agreements, after taking into account the effect of any legally enforceable netting agreement relating to such Swap Agreements, (a) for any date on or after the date such Swap Agreements have been closed out and termination value(s) determined in accordance therewith, such termination value(s) and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Swap Agreements, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Swap Agreements (which may include a Lender or any Affiliate of a Lender).

"Swingline Lender" means Regions Bank in its capacity as Swingline Lender hereunder, together with its permitted successors and assigns in such capacity.

"Swingline Loan" means a Loan made by the Swingline Lender to any Borrower pursuant to Section 2.2.

"Swingline Note" means a promissory note in the form of Exhibit 2.5-2, as it may be amended, supplemented or otherwise modified from time to time.

"Swingline Rate" means the Base Rate plus the Applicable Margin applicable to Base Rate Loans (or with respect to any Swingline Loan advanced pursuant to an Auto Borrow Agreement, such other rate as separately agreed in writing between the Borrowers and the Swingline Lender).

"Swingline Sublimit" means, at any time of determination, the lesser of (a) FIFTEEN MILLION DOLLARS (\$15,000,000) and (b) the aggregate unused amount of Revolving Commitments then in effect.

"Synthetic Lease" means a lease transaction under which the parties intend that (a) the lease will be treated as an "operating lease" by the lessee pursuant to Statement of Financial Accounting Standards No. 13, as amended and (b) the lessee will be entitled to various tax and other benefits ordinarily available to owners (as opposed to lessees) of like property.

"Taxes" means all present or future taxes, levies, imposts, duties, deductions, withholdings (including backup withholding), assessments, fees or other charges imposed by any Governmental Authority, including any interest, additions to tax or penalties applicable thereto.

"Term SOFR" means, as of any date of determination, for any calculations with respect to a SOFR Loan and/or a SOFR Borrowing and/or any determination of the Base Rate pursuant to clause (c) of the definition of "Base Rate" above, the rate per annum equal to the SOFR Reference Rate for a forward-looking tenor comparable to the then applicable or selected (as applicable) Interest Period for such SOFR Loan or SOFR Borrowing (or for a forward-looking one (1) month tenor, in the case of any determination of the Base Rate pursuant to clause (c) of the definition of "Base Rate" above), determined as of the date (such date, a "Periodic Term SOFR Determination Date") that is two (2) U.S. Government Securities Business Days prior to the first (1st) day of such Interest Period, as such rate is published by the Term SOFR Administrator on such Periodic Term SOFR Determination Date; provided, that, (a) if, as of 5:00 p.m. (New York City time) on any Periodic Term SOFR Determination Date, the SOFR Reference Rate for the applicable tenor has not been published by the Term SOFR Administrator, then "Term SOFR" shall instead mean the SOFR Reference Rate for such applicable tenor as published by the Term SOFR Administrator on the first (1st) preceding U.S. Government Securities Business Day for which such SOFR Reference Rate for such applicable tenor was published by the Term SOFR Administrator, subject to Section 3.1, and (b) if, at any time, Term SOFR (determined in accordance with the foregoing of this definition of "Term SOFR", including in accordance with the foregoing clause (a) of this proviso) is less than the Floor, then Term SOFR shall be deemed to equal the Floor for all purposes of this Agreement and the other Credit Documents. Any change(s) in Term SOFR for any Interest Period due to any change(s) in the SOFR Reference Rate for a comparable tenor shall be effective from, and including, the effective date of any such change(s) in such SOFR Reference Rate, without further notice to any Credit Party or Subsidiary, any other party to this Agreement or any other Credit Document, or any other Person.

"Term SOFR Administrator" means, the CME Group Benchmark Administration Limited (CBA) (or a successor administrator of the SOFR Reference Rate for any applicable tenor selected by the Administrative Agent in its reasonable discretion).

"Total Credit Exposure" means, as to any Lender at any time, the unused Revolving Commitments and Revolving Credit Exposure of such Lender at such time.

"Total Revolving Outstandings" means the aggregate Outstanding Amount of all Revolving Loans, all Swingline Loans and all Letter of Credit Obligations.

"Transmitting Utility" means as defined in Article 9 of the UCC.

"Treasury Management Agreement" means any agreement governing the provision of treasury or cash management services, including deposit accounts, funds transfer, automated clearinghouse, commercial credit cards, purchasing cards, cardless e-payable services, debit cards, stored value cards, zero balance accounts, returned check concentration, controlled disbursement, lockbox, account reconciliation and reporting and trade finance services.

"Type", when used in reference to a Loan or Borrowing, refers to whether the rate of interest on such Loan, or on the Loans comprising such Borrowing, is determined by reference to Adjusted Term SOFR for any Interest Period (other than pursuant to clause (c) of the definition of "Base Rate" above) or the Base Rate (including, for the avoidance of doubt, pursuant to clause (c) of the definition of "Base Rate" above).

"UCC" means the Uniform Commercial Code (or any similar or equivalent legislation) as in effect in the State of New York (or any other applicable jurisdiction, as the context may require).

"UCP" means the Uniform Customs and Practice for Documentary Credits, as most recently published by the International Chamber of Commerce.

"UK Financial Institution" means any BRRD Undertaking (as such term is defined under the PRA Rulebook (as amended from time to time) promulgated by the United Kingdom Prudential Regulation Authority) or any person falling within IFPRU 11.6 of the FCA Handbook (as amended from time to time) promulgated by the United Kingdom Financial Conduct Authority, which includes certain credit institutions and investment firms, and certain affiliates of such credit institutions or investment firms.

"UK Resolution Authority" means the Bank of England or any other public administrative authority having responsibility for the resolution of any UK Financial Institution.

"United States" or "U.S." means the United States of America.

"U.S. Government Securities Business Day" means, any day, other than: (a) a Saturday or a Sunday; or (b) any day on which SIFMA recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in U.S. government securities.

"U.S. Person" means any Person that is a "United States person" as defined in Section 7701(a)(30) of the Internal Revenue Code.

"U.S. Special Resolution Regimes" means as defined in Section 11.24.

"U.S. Tax Compliance Certificate" means as defined in Section 3.3(f).

"Unadjusted Benchmark Replacement" means the applicable Benchmark Replacement without giving effect to the Benchmark Replacement Adjustment.

"Voting Stock" means, with respect to any Person, Equity Interests issued by such Person the holders of which are ordinarily, in the absence of contingencies, entitled to vote for the election of directors (or persons performing similar functions) of such Person, even though the right so to vote has been suspended by the happening of such a contingency.

"Withholding Agent" means any Credit Party and the Administrative Agent.

"Write-Down and Conversion Powers" means, (a) with respect to any EEA Resolution Authority, the write-down and conversion powers of such EEA Resolution Authority from time to time under the Bail-In Legislation for the applicable EEA Member Country, which write-down and conversion powers are described in the EU Bail-In Legislation Schedule, and (b) with respect to the United Kingdom, any powers of the applicable Resolution Authority under the Bail-In Legislation to cancel, reduce, modify or change the form of a liability of any UK Financial Institution or any contract or instrument under which that liability arises, to convert all or part of that liability into shares, securities or obligations of that person or any other person, to provide that any such contract or instrument is to have effect as if a right had been exercised under it or to suspend any obligation in respect of that liability or any of the powers under that Bail-In Legislation that are related to or ancillary to any of those powers.

Section 1.2 Accounting Terms.

(a) Except as otherwise expressly provided herein, all accounting terms not otherwise defined herein shall have the meanings assigned to them in conformity with GAAP. Financial statements and other information required to be delivered by the Parent to the Lenders pursuant to clauses (a), (b), (c) and (d) of Section 7.1 shall be prepared in accordance with GAAP as in effect at the time of such preparation (and delivered together with the reconciliation statements provided for in Section 7.1(g), if applicable). If at any time any change in GAAP or in the consistent application thereof would affect the computation of any financial covenant or requirement set forth in any Credit Document, and either the Parent or the Required Lenders shall object in writing to determining compliance based on such change, then the Lenders and the Parent shall negotiate in good faith to amend such financial covenant, requirement or applicable defined terms to preserve the original intent thereof in light of such change to GAAP, provided that, until so amended such computations shall continue to be made on a basis consistent with the most recent financial statements delivered pursuant to clauses (a), (b), (c) and (d) of Section 7.1 as to which no such objection has been made. Notwithstanding anything to the contrary contained herein, all liability amounts shall be determined *excluding* any liability relating to any operating lease, all asset amounts shall be determined *excluding* any right-of-use assets relating to any operating lease, all amortization amounts shall be determined *excluding* any amortization of a right-of-use asset relating to any operating lease and all interest amounts shall be determined *excluding* any deemed interest comprising a portion of fixed rent payable under any operating lease, in each case of the foregoing, to the extent that such liability, asset, amortization or interest pertains to an operating lease under which the covenantor, or a member of its consolidated group, is the lessee and would *not* have been accounted for as such under GAAP as in effect on December 31, 2015.

(b) Calculations. Notwithstanding the above, the parties hereto acknowledge and agree that all calculations of the financial covenants in Section 8.8, including for purposes of determining the Applicable Margin, shall be made on a Pro Forma Basis.

(c) FASB ASC 825 and FASB ASC 470-20. Notwithstanding the above, for purposes of determining compliance with any covenant (including the computation of any financial covenant) contained herein, Indebtedness of the Parent and its Subsidiaries shall be deemed to be carried at 100% of the outstanding principal amount thereof, and the effects of FASB ASC 825 and FASB ASC 470-20 on financial liabilities shall be disregarded.

Section 1.3 Classifications of Loans and Borrowings. For purposes of this Agreement and the other Credit Documents, Loans may be classified and referred to by Type (*e.g.*, a "SOFR Loan" or a "Base Rate Loan"). Borrowings also may be classified and referred to by Type (*e.g.*, a "SOFR Borrowing" or a "Base Rate Borrowing").

Section 1.4 Interest Rate Disclosure. The Administrative Agent does *not* warrant or accept responsibility for, and shall *not* have any liability whatsoever with respect to: (a) the continuation, administration, submission and/or calculation of, or any other matter related to, any of the Base Rate, the SOFR Reference Rate (for any applicable tenor) and/or any SOFR-Based Rate (for any Interest Period, as applicable), or any component definition used or referred to in, or any rate(s) used or referred to in, the definitions of any of the foregoing in Section 1.1, or for any alternative, successor or replacement rate thereto (including, without limitation, any Benchmark Replacement), including whether the composition and/or characteristics of any such actual or proposed alternative, successor or replacement rate (including, without limitation, any Benchmark Replacement) is or will be similar to, or produces or will produce the same or substantially equivalent value or economic equivalence of, or has or will have the same or a comparable volume or liquidity as, any of the Base Rate, the SOFR Reference Rate (for any applicable tenor), any SOFR-Based Rate (for any Interest Period, as applicable) and/or any other Benchmark prior to its discontinuance or unavailability; or (b) the effect, implementation and/or composition of any Conforming Changes. The Administrative Agent, together with its Affiliates and other related entities, may engage in transactions that affect the calculation of any of the Base Rate, the SOFR Reference Rate (for any applicable tenor), any SOFR-Based Rate (for any Interest Period, as applicable), any alternative, successor or replacement rate of any of the foregoing (including, without limitation, any Benchmark Replacement), and/or any relevant adjustments to any of the foregoing, in any such case of the foregoing, in a manner adverse to the Borrower and the other Credit Parties. The Administrative Agent may select information sources or services in its reasonable discretion to ascertain any of the Base Rate, the SOFR Reference Rate (for any applicable tenor), any SOFR-Based Rate (for any Interest Period, as applicable), and/or any other Benchmark, in each case of the foregoing, pursuant to the terms of this Agreement, and the Administrative Agent shall have no liability whatsoever to the Borrower, any other Credit Party, any Subsidiary, any Lender and/or any other Person for damages of any kind, including direct or indirect, special, punitive, incidental and/or consequential damages, costs, losses and/or expenses (whether in tort, contract or otherwise and whether at law or in equity), for any error or calculation of any such rate (or any component thereof) provided by any such information source or service, except to the extent that such error or calculation is determined, by a court of competent jurisdiction in a final, non-appealable judgment, to have directly and proximately resulted from the gross negligence, bad faith or willful misconduct of the Administrative Agent.

Section 1.5 Rules of Interpretation.

(a) The definitions of terms herein shall apply equally to the singular and plural forms of the terms defined. Whenever the context may require, any pronoun shall include the corresponding masculine, feminine and neuter forms. The words "include", "includes" and "including" shall be deemed to be followed by the phrase "without limitation". The word "will" shall be construed to have the same meaning and effect as the word "shall". Unless the context requires otherwise, (i) any definition of or reference to any agreement, instrument or other document shall be construed as referring to such agreement, instrument or other document as from time to time amended, supplemented or otherwise modified (subject to any restrictions on such amendments, supplements or modifications set forth herein or in any other Credit Document), (ii) any reference herein to any Person shall be construed to include such Person's successors and assigns, (iii) the words "hereto", "herein," "hereof" and "hereunder," and words of similar import when used in any Credit Document, shall be construed to refer to such Credit Document in its entirety and not to any particular provision hereof or thereof, (iv) all references in a Credit Document to Sections, Exhibits, Appendices and Schedules shall be construed to refer to Sections of, and Exhibits, Appendices and Schedules to, the Credit Document in which such references appear, (v) any reference to any law shall include all statutory and regulatory rules, regulations, orders and provisions consolidating, amending, replacing or interpreting such law and any references to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time, and (vi) the words "asset" and "property" shall be construed to have the same meaning and effect and to refer to any and all tangible and intangible assets and properties, including cash, securities, accounts and contract rights.

(b) The terms lease and license shall include sub-lease and sub-license.

(c) All terms not specifically defined herein or by GAAP, which terms are defined in the UCC, shall have the meanings assigned to them in the UCC of the relevant jurisdiction, with the term "instrument" being that defined under Article 9 of the UCC of such jurisdiction.

(d) Unless otherwise expressly indicated, in the computation of periods of time from a specified date to a later specified date, the word "from" means "from and including", the words "to" and "until" each mean "to but excluding", and the word "through" means "to and including".

(e) Whenever the phrase "to the knowledge of" or words of similar import relating to the knowledge of a Person are used herein or in any other Credit Document, such phrase shall mean and refer to the actual knowledge of the Authorized Officers of such Person.

(f) This Agreement and the other Credit Documents are the result of negotiation among, and have been reviewed by counsel to, among others, the Administrative Agent and the Credit Parties, and are the product of discussions and negotiations among all parties. Accordingly, this Agreement and the other Credit Documents are not intended to be construed against the Administrative Agent or any of the Lenders merely on account of the Administrative Agent's or any Lender's involvement in the preparation of such documents.

(g) Unless otherwise indicated, all references to a specific time shall be construed to Eastern Standard Time or Eastern Daylight Savings Time, as the case may be. Unless otherwise expressly provided herein, all references to dollar amounts and "\$" shall mean Dollars.

(h) Unless otherwise specified herein, the amount of a Letter of Credit at any time shall be deemed to be the stated amount of such Letter of Credit in effect at such time (after giving effect to any permanent reduction in the stated amount of such Letter of Credit pursuant to the terms of such Letter of Credit); provided, however, that with respect to any Letter of Credit that, by its terms or the terms of any Issuer Document related thereto, provides for one or more automatic increases in the stated amount thereof, the amount of such Letter of Credit shall be deemed to be the maximum stated amount of such Letter of Credit after giving effect to all such increases, whether or not such maximum stated amount is in effect at such time.

(i) Any reference herein or in any other Credit Document to a merger, transfer, consolidation, amalgamation, assignment, sale or disposition, or similar term, shall be deemed to apply to a division of or by a limited liability company, or an allocation of assets to a series of a limited liability company (or the unwinding of such a division or allocation), as if it were a merger, transfer, consolidation, amalgamation, assignment, sale or disposition, or similar term, as applicable, to, of or with a separate Person. Any division of a limited liability company shall constitute a separate Person hereunder and under each other Credit Document (and each division of any limited liability company that is a Subsidiary, joint venture or any other like term shall also constitute such a Person or entity).

Section 2. LOANS AND LETTERS OF CREDIT

Section 2.1 Revolving Loans.

(a) Revolving Loans. During the Revolving Commitment Period, subject to the terms and conditions hereof, each Lender severally agrees to make revolving loans (each such loan, a "Revolving Loan") to the Borrowers in an aggregate amount up to but not exceeding such Lender's Revolving Commitment; provided, that after giving effect to the making of any Revolving Loan, (i) the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments, and (ii) the Revolving Credit Exposure of any Lender shall not exceed such Lender's Revolving Commitment. Amounts borrowed pursuant to this Section 2.1(a) may be repaid and reborrowed without premium or penalty (subject to Section 3.1(c)) during the Revolving Commitment Period. The Revolving Loans may consist of Base Rate Loans, SOFR Loans, or a combination thereof, as the applicable Borrower may request. Each Lender's Revolving Commitment shall expire on the Revolving Commitment Termination Date and all Revolving Loans and all other amounts owed hereunder with respect to the Revolving Loans and the Revolving Commitments shall be paid in full no later than such date.

(b) Mechanics for Revolving Loans.

(i) Except pursuant to Section 2.2(b)(iii), all Revolving Loans shall be made in an aggregate minimum amount of \$1,000,000 and integral multiples of \$1,000,000 in excess of that amount.

(ii) Whenever a Borrower desires that the Lenders make a Revolving Loan, such Borrower shall deliver to the Administrative Agent a fully executed Funding Notice *no later than* (x) 1:00 p.m. *at least* three (3) Business Days in advance of the proposed Credit Date in the case of a SOFR Loan and (y) 10:00 a.m. on the proposed Credit Date in the case of a Loan that is a Base Rate Loan. Except as otherwise provided herein, any Funding Notice for any Loans that are SOFR Loans shall be irrevocable on and after the related Interest Rate Determination Date, and such Borrower shall be bound to make a borrowing in accordance therewith.

(iii) Notice of receipt of each Funding Notice in respect of each Revolving Loan, together with the amount of each Lender's Revolving Commitment Percentage thereof, together with the applicable interest rate, shall be provided by the Administrative Agent to each applicable Lender by telefacsimile with reasonable promptness, but (provided, that, the Administrative Agent shall have received such notice from the applicable Borrower by *no later than* 1:00 p.m.) by *not later than* 4:00 p.m. on the same day as the Administrative Agent's receipt of such notice from the applicable Borrower.

(iv) Each Lender shall make its Revolving Commitment Percentage of the requested Revolving Loan available to the Administrative Agent *not later than* 2:00 p.m. on the applicable Credit Date by wire transfer of same day funds in Dollars, at the Administrative Agent's Principal Office. Except as otherwise expressly provided in this Agreement, upon satisfaction or waiver of the applicable conditions precedent to such requested Borrowing specified in this Agreement, the Administrative Agent shall make the proceeds of such Credit Extension available to the applicable Borrower on the applicable Credit Date by causing an amount of same day funds in Dollars equal to the proceeds of all Loans received by the Administrative Agent in connection with the Credit Extension from the Lenders to be disbursed and/or credited to the account of the applicable Borrower at the Administrative Agent's Principal Office or such other account(s) as may be designated in writing to the Administrative Agent by the applicable Borrower.

(c) Increase in Revolving Commitments. The Borrowers may, at any time and from time to time, upon prior written notice by the Borrowers to the Administrative Agent increase the Aggregate Revolving Commitments (but not the Letter of Credit Sublimit or the Swingline Sublimit) with additional Revolving Commitments from any existing Lender or new Revolving Commitments from any other Person selected by the Borrowers and reasonably acceptable to the Administrative Agent, the Swingline Lender and the Issuing Bank; provided that:

(i) the aggregate principal amount of any increases in the Revolving Commitments pursuant to this Section 2.1(c) shall not to exceed FIFTY MILLION DOLLARS (\$50,000,000);

(ii) any such increase shall be in a minimum principal amount of \$5,000,000 and in integral multiples of \$1,000,000 in excess thereof;

(iii) no Default or Event of Default shall exist before and immediately after giving effect to such increase;

(iv) the Credit Parties shall be in compliance, on a Pro Forma Basis after giving effect to the incurrence of any such increase in the Revolving Commitments, with the financial covenants set forth in clauses (a) and (b) of Section 8.8, recomputed as of the last day of the most recently ended Fiscal Quarter of the Parent for which financial statements have been delivered pursuant to Section 7.1;

(v) no existing Lender shall be under any obligation to increase its Revolving Commitment and any such decision whether to increase its Revolving Commitment shall be in such Lender's sole and absolute discretion;

(vi) (A) any new Lender providing a Revolving Commitment in connection with any increase in Aggregate Revolving Commitments shall (1) join this Agreement by executing such joinder documents reasonably required by the Administrative Agent, (2) provide a Revolving Commitment of at least \$10,000,000 (or any lesser amount as the Borrowers and the Administrative Agent may agree in their sole discretion) and (3) qualify as an Eligible Assignee and (B) any existing Lender electing to increase its Revolving Commitment shall have executed a commitment agreement reasonably satisfactory to the Administrative Agent;

(vii) any such increase in the Revolving Commitments shall be subject to receipt by the Administrative Agent of a certificate of the Parent dated as of the date of such increase signed by an Authorized Officer of the Parent (A) certifying and attaching the resolutions adopted by each Borrower and each Guarantor approving or consenting to such increase, and (B) certifying that, before and after giving effect to such increase, (1) the representations and warranties contained in Section 6 and the other Credit Documents are true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) on and as of the date of such increase, except to the extent that such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) as of such earlier date, and except that for purposes of this Section 2.1(c), the representations and warranties contained in Section 6.7 shall be deemed to refer to the most recent statements furnished pursuant to clauses (a) and (b) of Section 7.1, and (2) no Default or Event of Default exists; and

(viii) to the extent that the joinder or commitment agreements described in clause (vi) above provide for an applicable margin of, and/or commitment fee for, additional Revolving Commitments greater than the Applicable Margin and/or Commitment Fee with respect to the existing Revolving Commitments at such time, the Applicable Margin and/or the Commitment Fee (as applicable) for the existing Revolving Commitments shall be increased automatically (without the consent of Required Lenders) such that the Applicable Margin and/or the Commitment Fee (as applicable) for such existing Revolving Commitments is not less than the applicable margin and/or the commitment fee (as applicable) for such additional Revolving Commitments.

The Borrowers shall prepay any Revolving Loans owing under this Agreement on the date of any such increase in the Revolving Commitments to the extent necessary to keep the outstanding Revolving Loans ratable with any revised Revolving Commitments arising from any nonratable increase in the Revolving Commitments under this Section.

Section 2.2 Swingline Loans.

(a) Swingline Loans Commitments. During the Revolving Commitment Period, subject to the terms and conditions hereof, the Swingline Lender may, in its sole discretion, make Swingline Loans to the Borrowers in an aggregate amount up to but not exceeding the Swingline Sublimit; provided, that after giving effect to the making of any Swingline Loan, in no event shall (i) the Total Revolving Outstandings exceed the Aggregate Revolving Commitments and (ii) the Revolving Credit Exposure of any Lender exceed such Lender's Revolving Commitment. Amounts borrowed pursuant to this Section 2.2 may be repaid and reborrowed during the Revolving Commitment Period. The Swingline Lender's Revolving Commitment shall expire on the Revolving Commitment Termination Date and all Swingline Loans and all other amounts owed hereunder with respect to the Swingline Loans and the Revolving Commitments shall be paid in full no later than such date.

(b) Borrowing Mechanics for Swingline Loans.

(i) Subject to clause (vi) below, whenever any Borrower desires that the Swingline Lender make a Swingline Loan, such Borrower shall deliver to the Administrative Agent a Funding Notice no later than 11:00 a.m. on the proposed Credit Date; provided that all Swingline Loans shall be made in an aggregate minimum amount of \$500,000 and integral multiples of \$100,000 in excess of that amount (in each case, unless otherwise agreed by the Swingline Lender in its sole discretion).

(ii) The Swingline Lender shall make the amount of its Swingline Loan available to the Administrative Agent not later than 3:00 p.m. on the applicable Credit Date by wire transfer of same day funds in Dollars, at the Administrative Agent's Principal Office. Except as provided herein, upon satisfaction or waiver of the conditions precedent specified herein, the Administrative Agent shall make the proceeds of such Swingline Loans available to the applicable Borrower on the applicable Credit Date by causing an amount of same day funds in Dollars equal to the proceeds of all such Swingline Loans received by the Administrative Agent from the Swingline Lender to be credited to the account of the applicable Borrower at the Administrative Agent's Principal Office, or to such other account as may be designated in writing to the Administrative Agent by the applicable Borrower.

(iii) With respect to any Swingline Loans which have not been voluntarily prepaid by the Borrowers pursuant to Section 2.11, the Swingline Lender may at any time in its sole and absolute discretion, deliver to the Administrative Agent (with a copy to the Borrowers), no later than 11:00 a.m. on the day of the proposed Credit Date, a notice (which shall be deemed to be a Funding Notice given by a Borrower) requesting that each Lender holding a Revolving Commitment make Revolving Loans that are Base Rate Loans to the applicable Borrower on such Credit Date in an amount equal to the amount of such Swingline Loans (the "Refunded Swingline Loans") outstanding on the date such notice is given which the Swingline Lender requests Lenders to prepay. Anything contained in this Agreement to the contrary notwithstanding, (1) the proceeds of such Revolving Loans made by the Lenders other than the Swingline Lender shall be immediately delivered by the Administrative Agent to the Swingline Lender (and not to the applicable Borrower) and applied to repay a corresponding portion of the Refunded Swingline Loans and (2) on the day such Revolving Loans are made, the Swingline Lender's Revolving Commitment Percentage of the Refunded Swingline Loans shall be deemed to be paid with the proceeds of a Revolving Loan made by the Swingline Lender to the applicable Borrower, and such portion of the Swingline Loans deemed to be so paid shall no longer be outstanding as Swingline Loans and shall no longer be due under the Swingline Note of the Swingline Lender but shall instead constitute part of the Swingline Lender's outstanding Revolving Loans to such Borrower and shall be due under the Revolving Loan Note issued by such Borrower to the Swingline Lender. Each Borrower hereby authorizes the Administrative Agent and the Swingline Lender to charge such Borrower's accounts with the Administrative Agent and the Swingline Lender (up to the amount available in each such account) in order to immediately pay the Swingline Lender the amount of the Refunded Swingline Loans to the extent the proceeds of such Revolving Loans made by the Lenders, including the Revolving Loans deemed to be made by the Swingline Lender, are insufficient to repay in full the Refunded Swingline Loans. If any portion of any such amount paid (or deemed to be paid) to the Swingline Lender should be recovered by or on behalf of the Borrowers from the Swingline Lender in bankruptcy, by assignment for the benefit of creditors or otherwise, the loss of the amount so recovered shall be ratably shared among all Lenders in the manner contemplated by Section 2.14.

(iv) If for any reason Revolving Loans are not made pursuant to Section 2.2(b)(iii) in an amount sufficient to repay any amounts owed to the Swingline Lender in respect of any outstanding Swingline Loans on or before the third Business Day after demand for payment thereof by the Swingline Lender, each Lender holding a Revolving Commitment shall be deemed to, and hereby agrees to, have purchased a participation in such outstanding Swingline Loans, and in an amount equal to its Revolving Commitment Percentage of the applicable unpaid amount together with accrued interest thereon. On the Business Day that notice is provided by the Swingline Lender (or by the 11:00 a.m. on the following Business Day if such notice is provided after 2:00 p.m.), each Lender holding a Revolving Commitment shall deliver to the Swingline Lender an amount equal to its respective participation in the applicable unpaid amount in same day funds at the Principal Office of the Swingline Lender. In order to evidence such participation each Lender holding a Revolving Commitment agrees to enter into a participation agreement at the request of the Swingline Lender in form and substance reasonably satisfactory to the Swingline Lender. In the event any Lender holding a Revolving Commitment fails to make available to the Swingline Lender the amount of such Lender's participation as provided in this paragraph, the Swingline Lender shall be entitled to recover such amount on demand from such Lender together with interest thereon for three (3) Business Days at the rate customarily used by the Swingline Lender for the correction of errors among banks and thereafter at the Base Rate, as applicable.

(v) Notwithstanding anything contained herein to the contrary, (1) each Lender's obligation to make Revolving Loans for the purpose of repaying any Refunded Swingline Loans pursuant to clause (iii) above and each Lender's obligation to purchase a participation in any unpaid Swingline Loans pursuant to the immediately preceding paragraph shall be absolute and unconditional and shall not be affected by any circumstance, including (A) any set-off, counterclaim, recoupment, defense or other right which such Lender may have against the Swingline Lender, any Credit Party or any other Person for any reason whatsoever; (B) the occurrence or continuation of a Default or Event of Default; (C) any adverse change in the business, operations, properties, assets, condition (financial or otherwise) or prospects of any Credit Party; (D) any breach of this Agreement or any other Credit Document by any party thereto; or (E) any other circumstance, happening or event whatsoever, whether or not similar to any of the foregoing; provided that such obligations of each Lender are subject to the condition that the Swingline Lender had not received prior notice from the Borrowers or the Required Lenders that any of the conditions under Section 5.2 to the making of the applicable Refunded Swingline Loans or other unpaid Swingline Loans were not satisfied at the time such Refunded Swingline Loans or other unpaid Swingline Loans were made; and (2) the Swingline Lender shall not be obligated to make any Swingline Loans (A) if it has elected not to do so after the occurrence and during the continuation of a Default or Event of Default, (B) it does not in good faith believe that all conditions under Section 5.2 to the making of such Swingline Loan have been satisfied or waived by the Required Lenders or (C) at a time when a Defaulting Lender exists, unless the Swingline Lender has entered into arrangements satisfactory to it and the Borrowers to eliminate the Swingline Lender's risk with respect to the Defaulting Lender's participation in such Swingline Loan, including by Cash Collateralizing such Defaulting Lender's Revolving Commitment Percentage of the outstanding Swingline Loans in a manner reasonably satisfactory to the Swingline Lender and the Administrative Agent.

(vi) In order to facilitate the borrowing of Swingline Loans, the Borrowers and the Swingline Lender may mutually agree to, and are hereby authorized to, enter into an auto borrow agreement in form and substance satisfactory to the Swingline Lender and the Administrative Agent (the "Auto Borrow Agreement") providing for the automatic advance by the Swingline Lender of Swingline Loans under the conditions set forth in the Auto Borrow Agreement, subject to the conditions set forth herein. At any time an Auto Borrow Agreement is in effect, advances under the Auto Borrow Agreement shall be deemed Swingline Loans for all purposes hereof, except that Borrowings of Swingline Loans under the Auto Borrow Agreement shall be made in accordance with the Auto Borrow Agreement. For purposes of determining the Total Revolving Outstandings at any time during which an Auto Borrow Agreement is in effect, the Outstanding Amount of all Swingline Loans shall be deemed to be the sum of the Outstanding Amount of Swingline Loans at such time plus the maximum amount available to be borrowed under such Auto Borrow Agreement at such time.

Section 2.3 Issuances of Letters of Credit and Purchase of Participations Therein.

(a) Letters of Credit. During the Revolving Commitment Period, subject to the terms and conditions hereof, each Issuing Bank agrees to issue Letters of Credit for the account of any Borrower or any of its Subsidiaries in the aggregate amount up to but not exceeding the Letter of Credit Sublimit; provided, (i) each Letter of Credit shall be denominated in Dollars; (ii) the stated amount of each Letter of Credit shall not be less than \$50,000 or such lesser amount as is acceptable to the applicable Issuing Bank; (iii) after giving effect to such issuance, in no event shall (x) the Total Revolving Outstandings exceed the Aggregate Revolving Commitments, (y) the Revolving Credit Exposure of any Lender exceed such Lender's Revolving Commitment and (z) the Outstanding Amount of Letter of Credit Obligations exceed the Letter of Credit Sublimit; and (iv) in no event shall any standby Letter of Credit have an expiration date later than the earlier of (1) seven (7) days prior to the Revolving Commitment Termination Date, and (2) the date which is one (1) year from the date of issuance of such standby Letter of Credit. Subject to the foregoing (other than clause (iv)) any Issuing Bank may agree that a standby Letter of Credit will automatically be extended for one or more successive periods not to exceed one (1) year each, unless such Issuing Bank elects not to extend for any such additional period; provided, no Issuing Bank shall extend any such Letter of Credit if it has received written notice that an Event of Default has occurred and is continuing at the time such Issuing Bank must elect to allow such extension; provided, further, in the event that any Lender is at such time a Defaulting Lender, unless the applicable Issuing Bank has entered into arrangements satisfactory to such Issuing Bank (in its sole discretion) with the Borrowers or such Defaulting Lender to eliminate such Issuing Bank's Fronting Exposure with respect to such Lender (after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender), including by Cash Collateralizing such Defaulting Lender's Revolving Commitment Percentage of the Outstanding Amount of the Letter of Credit Obligations in a manner reasonably satisfactory to Agents, such Issuing Bank shall not be obligated to issue or extend any Letter of Credit hereunder. The Issuing Bank may send a Letter of Credit or conduct any communication to or from the beneficiary via the Society for Worldwide Interbank Financial Telecommunication ("SWIFT") message or overnight courier, or any other commercially reasonable means of communicating with a beneficiary.

(b) Notice of Issuance. Whenever any Borrower desires the issuance of a Letter of Credit, such Borrower shall deliver to the Administrative Agent an Issuance Notice no later than 1:00 p.m. at least three (3) Business Days or such shorter period as may be agreed to by any Issuing Bank in any particular instance, in advance of the proposed date of issuance. Upon satisfaction or waiver of the conditions set forth in Section 5.2, an Issuing Bank shall issue the requested Letter of Credit only in accordance with such Issuing Bank's standard operating procedures (including, without limitation, the delivery by the applicable Borrower of such executed documents and information pertaining to such requested Letter of Credit, including any Issuer Documents, as the applicable Issuing Bank or the Administrative Agent may require). Upon the issuance of any Letter of Credit or amendment or modification to a Letter of Credit, the applicable Issuing Bank shall promptly notify the Administrative Agent and each Lender of such issuance, which notice shall be accompanied by a copy of such Letter of Credit or amendment or modification to a Letter of Credit and the amount of such Lender's respective participation in such Letter of Credit pursuant to Section 2.3(e).

(c) Responsibility of Issuing Banks With Respect to Requests for Drawings and Payments. In determining whether to honor any drawing under any Letter of Credit by the beneficiary thereof, the applicable Issuing Bank shall be responsible only to examine the documents delivered under such Letter of Credit with reasonable care so as to ascertain whether they appear on their face to be in accordance with the terms and conditions of such Letter of Credit. As between the Borrowers and any Issuing Bank, the Borrowers assume all risks of the acts and omissions of, or misuse of the Letters of Credit issued by such Issuing Bank, by the respective beneficiaries of such Letters of Credit. In furtherance and not in limitation of the foregoing, no Issuing Bank shall be responsible for: (i) the form, validity, sufficiency, accuracy, genuineness or legal effect of any document submitted by any party in connection with the application for and issuance of any such Letter of Credit, even if it should in fact prove to be in any or all respects invalid, insufficient, inaccurate, fraudulent or forged; (ii) the validity or sufficiency of any instrument transferring or assigning or purporting to transfer or assign any such Letter of Credit or the rights or benefits thereunder or proceeds thereof, in whole or in part, which may prove to be invalid or ineffective for any reason; (iii) failure of the beneficiary of any such Letter of Credit to comply fully with any conditions required in order to draw upon such Letter of Credit; (iv) errors, omissions, interruptions or delays in transmission or delivery of any messages, by mail, cable, telegraph, telex or otherwise, whether or not they be in cipher; (v) errors in interpretation of technical terms; (vi) any loss or delay in the transmission or otherwise of any document required in order to make a drawing under any such Letter of Credit or of the proceeds thereof; (vii) the misapplication by the beneficiary of any such Letter of Credit of the proceeds of any drawing under such Letter of Credit; or (viii) any consequences arising from causes beyond the control of such Issuing Bank, including any Governmental Acts; none of the above shall affect or impair, or prevent the vesting of, any Issuing Bank's rights or powers hereunder. Without limiting the foregoing and in furtherance thereof, any action taken or omitted by any Issuing Bank under or in connection with the Letters of Credit or any documents and certificates delivered thereunder, if taken or omitted in good faith, shall not give rise to any liability on the part of such Issuing Bank to any Credit Party. Notwithstanding anything to the contrary contained in this Section 2.3(c), the Borrowers shall retain any and all rights it may have against any Issuing Bank for any liability arising solely out of the gross negligence or willful misconduct of such Issuing Bank, as determined by a court of competent jurisdiction in a final, non-appealable order.

(d) Reimbursement by the Borrowers of Amounts Drawn or Paid Under Letters of Credit. In the event an Issuing Bank has determined to honor a drawing under a Letter of Credit, it shall immediately notify the applicable Borrower and the Administrative Agent, and such Borrower shall reimburse such Issuing Bank on or before the Business Day immediately following the date on which such drawing is honored (the "Reimbursement Date") in an amount in Dollars and in same day funds equal to the amount of such honored drawing; provided, anything contained herein to the contrary notwithstanding, (i) unless such Borrower shall have notified the Administrative Agent and the applicable Issuing Bank prior to 11:00 a.m. on the date such drawing is honored that such Borrower intends to reimburse such Issuing Bank for the amount of such honored drawing with funds other than the proceeds of Revolving Loans, such Borrower shall be deemed to have given a timely Funding Notice to the Administrative Agent requesting the Lenders to make Revolving Loans that are Base Rate Loans on the Reimbursement Date in an amount in Dollars equal to the amount of such honored drawing, and (ii) subject to satisfaction or waiver of the conditions specified in Section 5.2, the Lenders shall, on the Reimbursement Date, make Revolving Loans that are Base Rate Loans in the amount of such honored drawing, the proceeds of which shall be applied directly by the Administrative Agent to reimburse the applicable Issuing Bank for the amount of such honored drawing; and provided further, if for any reason proceeds of Revolving Loans are not received by the applicable Issuing Bank on the Reimbursement Date in an amount equal to the amount of such honored drawing, such Borrower shall reimburse such Issuing Bank, on demand, in an amount in same day funds equal to the excess of the amount of such honored drawing over the aggregate amount of such Revolving Loans, if any, which are so received. Nothing in this Section 2.3(d) shall be deemed to relieve any Lender from its obligation to make Revolving Loans on the terms and conditions set forth herein, and the Borrowers shall retain any and all rights it may have against any Lender resulting from the failure of such Lender to make such Revolving Loans under this Section 2.3(d).

(e) Lenders' Purchase of Participations in Letters of Credit. Immediately upon the issuance of each Letter of Credit, each Lender having a Revolving Commitment shall be deemed to have purchased, and hereby agrees to irrevocably purchase, from the applicable Issuing Bank a participation in such Letter of Credit and any drawings honored thereunder in an amount equal to such Lender's Revolving Commitment Percentage (with respect to the Revolving Commitments) of the maximum amount which is or at any time may become available to be drawn thereunder. In the event that any Borrower shall fail for any reason to reimburse an Issuing Bank as provided in Section 2.3(d), the applicable Issuing Bank shall promptly notify each Lender of the unreimbursed amount of such honored drawing and of such Lender's respective participation therein based on such Lender's Revolving Commitment Percentage. Each Lender shall make available to the applicable Issuing Bank an amount equal to its respective participation, in Dollars and in same day funds, at the office of such Issuing Bank specified in such notice, not later than 12:00 p.m. on the first Business Day (under the laws of the jurisdiction in which such office of such Issuing Bank is located) after the date notified by such Issuing Bank. In the event that any Lender fails to make available to the applicable Issuing Bank on such Business Day the amount of such Lender's participation in such Letter of Credit as provided in this Section 2.3(e), such Issuing Bank shall be entitled to recover such amount on demand from such Lender together with interest thereon for three (3) Business Days at the rate customarily used by the applicable Issuing Bank for the correction of errors among banks and thereafter at the Base Rate. Nothing in this Section 2.3(e) shall be deemed to prejudice the right of any Lender to recover from any Issuing Bank any amounts made available by such Lender to such Issuing Bank pursuant to this Section in the event that it is determined that the payment with respect to a Letter of Credit in respect of which payment was made by such Lender constituted gross negligence or willful misconduct on the part of such Issuing Bank, as determined by a court of competent jurisdiction in a final, non-appealable order. In the event an Issuing Bank shall have been reimbursed by other Lenders pursuant to this Section 2.3(e) for all or any portion of any drawing honored by such Issuing Bank under a Letter of Credit, such Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under this Section 2.3(e) with respect to such honored drawing such Lender's Revolving Commitment Percentage of all payments subsequently received by such Issuing Bank from such Borrower in reimbursement of such honored drawing when such payments are received. Any such distribution shall be made to a Lender at its primary address set forth below its name on Appendix B or at such other address as such Lender may request.

(f) Obligations Absolute. The obligation of the Borrowers to reimburse the applicable Issuing Bank for drawings honored under the Letters of Credit issued by it and to repay any Revolving Loans made by the Lenders pursuant to Section 2.3(d) and the obligations of the Lenders under Section 2.3(e) shall be unconditional and irrevocable and shall be paid strictly in accordance with the terms hereof under all circumstances including any of the following circumstances: (i) any lack of validity or enforceability of any Letter of Credit; (ii) the existence of any claim, set-off, defense (other than that such drawing has been repaid) or other right which any Borrower or any Lender may have at any time against a beneficiary or any transferee of any Letter of Credit (or any Persons for whom any such transferee may be acting), any Issuing Bank, a Lender or any other Person or, in the case of a Lender, against any Borrower, whether in connection herewith, the transactions contemplated herein or any unrelated transaction (including any underlying transaction between any Borrower or any of its Subsidiaries and the beneficiary for which any Letter of Credit was procured); (iii) any draft or other document presented under any Letter of Credit proving to be forged, fraudulent, invalid or insufficient in any respect or any statement therein being untrue or inaccurate in any respect; (iv) payment by any Issuing Bank under any Letter of Credit against presentation of a draft or other document which does not substantially comply with the terms of such Letter of Credit; (v) any adverse change in the business, operations, properties, assets, or financial condition of any Borrower or any of its Subsidiaries; (vi) any breach hereof or any other Credit Document by any party thereto; (vii) any other circumstance or happening whatsoever, whether or not similar to any of the foregoing; or (viii) the fact that an Event of Default or a Default shall have occurred and be continuing; provided, in each case, that payment by the applicable Issuing Bank under the applicable Letter of Credit shall not have constituted gross negligence or willful misconduct of such Issuing Bank under the circumstances in question, as determined by a court of competent jurisdiction in a final, non-appealable order.

(g) Indemnification. Without duplication of any obligation of the Credit Parties under Section 11.2, in addition to amounts payable as provided herein, each of the Credit Parties hereby agrees, on a joint and several basis, to protect, indemnify, pay and save harmless each Issuing Bank from and against any and all claims, demands, liabilities, damages, losses, costs, charges and expenses (including reasonable out-of-pocket fees, expenses and disbursements of counsel) which each Issuing Bank may incur or be subject to as a consequence, direct or indirect, of (i) the issuance of any Letter of Credit by such Issuing Bank, other than as a result of (1) the gross negligence or willful misconduct of such Issuing Bank, as determined by a court of competent jurisdiction in a final, non-appealable order, or (2) the wrongful dishonor by such Issuing Bank of a proper demand for payment made under any Letter of Credit issued by it, or (ii) the failure of such Issuing Bank to honor a drawing under any such Letter of Credit as a result of any Governmental Act.

(h) Applicability of ISP and UCP. Unless otherwise expressly agreed by the applicable Issuing Bank and the applicable Borrower when a Letter of Credit is issued, (i) the rules of the ISP shall apply to each standby Letter of Credit and (ii) the rules of the UCP shall apply to each commercial Letter of Credit.

(i) Letters of Credit Issued for Subsidiaries. Notwithstanding that a Letter of Credit issued or outstanding hereunder is in support of any obligations of, or is for the account of, a Subsidiary of a Borrower, such Borrower shall be obligated to reimburse the applicable Issuing Bank hereunder for any and all drawings under such Letter of Credit. Each Borrower hereby acknowledges that the issuance of Letters of Credit for the account of the Subsidiaries inures to the benefit of such Borrower, and that such Borrower's business derives substantial benefits from the businesses of such Subsidiaries.

(j) Conflict with Issuer Documents. In the event of any conflict between the terms hereof and the terms of any Issuer Document, the terms hereof shall control.

Section 2.4 Pro Rata Shares; Availability of Funds.

(a) Pro Rata Shares. All Loans shall be made, and all participations purchased, by the Lenders simultaneously and proportionately to their respective pro rata shares of the Loans, it being understood that no Lender shall be responsible for any default by any other Lender in such other Lender's obligation to make a Loan requested hereunder or purchase a participation required hereby nor shall any Revolving Commitment, or the portion of the aggregate outstanding principal amount of the Revolving Loans, of any Lender be increased or decreased as a result of a default by any other Lender in such other Lender's obligation to make a Loan requested hereunder or purchase a participation required hereby.

(b) Availability of Funds.

(i) Funding by Lenders; Presumption by Administrative Agent. Unless the Administrative Agent shall have received notice from a Lender prior to the proposed date of any Borrowing (or, in the case of any Borrowing of Base Rate Loans, prior to 12:00 noon on the date of such Borrowing) that such Lender will not make available to the Administrative Agent such Lender's share of such Borrowing, the Administrative Agent may assume that such Lender has made such share available on such date in accordance with Section 2.1(b) or, in the case of a Borrowing of Base Rate Loans, that such Lender has made such share available in accordance with and at the time required by Section 2.1(b) and may, in reliance upon such assumption, make available to the applicable Borrower a corresponding amount. In such event, if a Lender has not in fact made its share of the applicable Borrowing available to the Administrative Agent, then the applicable Lender and the applicable Borrower severally agree to pay to the Administrative Agent forthwith on demand such corresponding amount in immediately available funds with interest thereon, for each day from and including the date such amount is made available to such Borrower to but excluding the date of payment to the Administrative Agent, at (A) in the case of a payment to be made by such Lender, the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation and (B) in the case of a payment to be made by such Borrower, the interest rate applicable to Base Rate Loans, plus, in either case, any administrative, processing or similar fees customarily charged by the Administrative Agent in connection therewith. If such Borrower and such Lender shall pay such interest to the Administrative Agent for the same or an overlapping period, the Administrative Agent shall promptly remit to such Borrower the amount of such interest paid by such Borrower for such period. If such Lender pays its share of the applicable Borrowing to the Administrative Agent, then the amount so paid shall constitute such Lender's Loan included in such Borrowing. Any payment by any Borrower shall be without prejudice to any claim any Borrower may have against a Lender that shall have failed to make such payment to the Administrative Agent.

(ii) Payments by the Borrowers; Presumptions by Administrative Agent. Unless the Administrative Agent shall have received notice from the applicable Borrower prior to the date on which any payment is due to the Administrative Agent for the account of the Lenders or any Issuing Bank hereunder that such Borrower will not make such payment, the Administrative Agent may assume that such Borrower has made such payment on such date in accordance herewith and may, in reliance upon such assumption, distribute to the Lenders or each applicable Issuing Bank, as the case may be, the amount due. In such event, if such Borrower has not in fact made such payment, then each of the Lenders or each applicable Issuing Bank, as the case may be, severally agrees to repay to the Administrative Agent forthwith on demand the amount so distributed to such Lender or such Issuing Bank, in immediately available funds with interest thereon, for each day from and including the date such amount is distributed to it to but excluding the date of payment to the Administrative Agent, at the greater of the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

Notices given by the Administrative Agent under this subsection (b) shall be conclusive absent manifest error.

Section 2.5 Evidence of Debt; Register; Lenders' Books and Records; Notes.

(a) Lenders' Evidence of Debt. Each Lender shall maintain on its internal records an account or accounts evidencing the Obligations of each Borrower and each other Credit Party to such Lender, including the amounts of the Loans made by it and each repayment and prepayment in respect thereof. Any such recordation shall be conclusive and binding on the Borrowers, absent manifest error; provided, that the failure to make any such recordation, or any error in such recordation, shall not affect any Lender's Commitment or any Borrower's obligations in respect of any applicable Loans; provided, further, that in the event of any inconsistency between the Register and any Lender's records, the recordations in the Register shall govern in the absence of demonstrable error therein.

(b) Notes. Each Borrower shall execute and deliver to each (i) Lender on the Effective Date, (ii) Person who is a permitted assignee of such Lender pursuant to Section 11.5 and (iii) Person who becomes a Lender in accordance with Section 2.1(c), in each case to the extent requested by such Person, a Note or Notes to evidence such Person's portion of the Revolving Loans or Swingline Loans, as applicable.

Section 2.6 Scheduled Principal Payments.

(a) Revolving Loans. The principal amount of Revolving Loans is due and payable in full on the Revolving Commitment Termination Date.

(b) Swingline Loans. The principal amount of the Swingline Loans is due and payable in full on the earlier to occur of (i) the date of demand by the Swingline Lender and (ii) the Revolving Commitment Termination Date.

Section 2.7 Interest on Loans.

(a) Except as otherwise set forth in this Agreement, each Loan shall bear interest on the unpaid principal amount thereof from, and including, the date on which such Loan is made through, and including, the date of repayment in full (whether by acceleration or otherwise) thereof, as follows:

(i) in the case of any Revolving Loans, if such Loan is outstanding as:

(A) a Base Rate Loan, at the Base Rate *plus* the Applicable Margin; or

(B) a SOFR Loan, at Adjusted Term SOFR for the applicable Interest Period *plus* the Applicable Margin; and

(ii) in the case of Swingline Loans, at the Swingline Rate (or with respect to any Swingline Loan advanced pursuant to an Auto Borrow Agreement, such other rate as separately agreed in writing between the Borrowers and the Swingline Lender).

(b) The basis for determining the rate of interest with respect to any Loan (except a Swingline Loan, which may only be made and maintained at the Swingline Rate (unless and until converted into a Revolving Loan pursuant to the terms and conditions hereof)), and the Interest Period in respect of any requested Borrowing of, or continuation of or conversion to, SOFR Loans, in each case of the foregoing, shall be selected by the applicable Borrower and notified to the Administrative Agent and the Lenders pursuant to the applicable Funding Notice or Conversion/Continuation Notice, as the case may be, provided, that, (i) no Borrowing may be converted into, or continued as, a SOFR Borrowing if a Default or an Event of Default then exists or would result therefrom, unless the Administrative Agent and each of the Lenders shall have otherwise consented in writing, (ii) subject to the foregoing clause (b)(i), if, at expiration of any Interest Period in respect of any SOFR Loan, the Borrowers shall have failed to deliver a Conversion / Continuation Notice, then the Borrowers shall be deemed to have elected to continue such Loan as a SOFR Loan with an Interest Period of the same duration as the Interest Period then in effect, (iii) there shall be *no more than five (5)* Interest Periods in effect at any time with respect to all outstanding SOFR Loans, taken together, (iv) if any Funding Notice or any Conversion / Continuation Notice requests a SOFR Borrowing or a conversion to, or continuation of, outstanding SOFR Loans (as applicable) but does *not* specify an Interest Period in respect of such SOFR Loans, then the Borrowers shall be deemed to have selected an Interest Period of one (1) month, and (v) in the event that the Borrowers fail to specify the Type of a requested Borrowing, conversion or continuation in an applicable Funding Notice or Conversion / Continuation Notice, then (A) any such requested Borrowing shall be a Base Rate Borrowing, (B) any outstanding Base Rate Loans relating thereto shall continue to remain outstanding as Base Rate Loans, and (C) any outstanding SOFR Loans relating thereto shall be automatically continued as SOFR Loans with an Interest Period of the same duration as the Interest Period then in effect for such SOFR Loans. As soon as practicable *after 10:00 A.M.* on each Interest Rate Determination Date, the Administrative Agent shall determine (which determination shall, absent manifest error, be final, conclusive and binding upon all parties) the interest rate that shall apply to each of the SOFR Loans for which an interest rate is then being determined (and for the applicable Interest Period) and shall promptly give notice thereof (in writing or by telephone confirmed in writing) to the Borrowers and each Lender.

(c) Interest payable pursuant to this Section 2.7 shall be computed on the basis of (i) for interest at the Base Rate (including, for the avoidance of doubt, the Base Rate determined by reference to clause (c) of the definition of "Base Rate" in Section 1.1), a year of three-hundred sixty-five (365) or three-hundred sixty-six (366) calendar days, as the case may be, and (ii) for all other computations of fees and interest, a year of three-hundred sixty (360) calendar days, in each case of the foregoing clauses (c)(1) and (c)(ii), for the actual number of calendar days elapsed in the period during which it accrues. In computing interest on any Loan, the date of the making of such Loan or the first (1st) day of an Interest Period applicable to such Loan, or, with respect to a Base Rate Loan being converted from a SOFR Loan, the date of conversion of such outstanding SOFR Loan to a Base Rate Loan, as the case may be, shall be included, and the date of payment of such Loan or the expiration date of an Interest Period applicable to such Loan, or, with respect to a Base Rate Loan being converted to a SOFR Loan, the date of conversion of such outstanding Base Rate Loan to a SOFR Loan, as the case may be, shall be excluded; provided, that, notwithstanding anything to the contrary in the foregoing, if any Loan is repaid on the same day on which it is made, then one (1) day's interest shall be paid on that Loan.

(d) If, as a result of any restatement of, or other adjustment to, the financial statements of the Parent or for any other reason, the Parent or the Lenders determine that (i) the Consolidated Leverage Ratio as calculated by the Parent as of any applicable date was inaccurate and (ii) a proper calculation of the Consolidated Leverage Ratio would have resulted in higher pricing for such period, the Borrowers shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the Lenders promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code or other Debtor Relief Law, automatically and without further action by the Administrative Agent or any Lender), an amount equal to the excess of the amount of interest and fees that should have been paid for such period over the amount of interest and fees actually paid for such period. This clause (d) shall not limit the rights of the Administrative Agent, the Collateral Agent, the Issuing Bank or any Lender, as the case may be, under any other provision of this Agreement or any Credit Document. Each Borrower's obligations under this clause (d) shall survive the termination of the Commitments and the repayment of all other Obligations.

(e) Except as otherwise expressly set forth in this Agreement, interest on each Loan shall accrue on a daily basis and shall be payable in arrears on and to (i) each Interest Payment Date applicable to such Loan; (ii) upon any prepayment of such Loan (other than a voluntary prepayment of a Revolving Loan, which interest shall be payable in accordance with the foregoing clause (e)(i)), to the extent accrued on the amount being prepaid; and (iii) on the Revolving Commitment Termination Date.

(f) Each Borrower agrees to pay to the applicable Issuing Bank, with respect to drawings honored under any Letter of Credit issued by such Issuing Bank, interest on the amount paid by the Issuing Bank in respect of each such honored drawing from, and including, the date such drawing is honored to, but excluding, the date such amount is reimbursed by, or on behalf of, such Borrower, at a rate equal to: (i) for the period from, and including, the date such drawing is honored to, but excluding, the applicable Reimbursement Date, the rate of interest otherwise payable under this Agreement with respect to Revolving Loans that are Base Rate Loans; and (ii) thereafter, a rate that is the lesser of (A) two percent (2.00%) per annum in excess of the rate of interest otherwise payable under this Agreement with respect to Revolving Loans that are Base Rate Loans, and (B) the Highest Lawful Rate.

(g) Interest payable pursuant to the foregoing clause (f) shall be computed on the basis of a year of three-hundred sixty-five (365) or three-hundred sixty-six (366) calendar days, as the case may be, for the actual number of days elapsed in the period during which it accrues, and shall be payable on demand or, if no demand is made, on the date on which the related drawing under a Letter of Credit is reimbursed in full. Promptly upon receipt by the Issuing Bank of any payment of interest pursuant to the foregoing clause (f), the Issuing Bank shall distribute to each Lender, out of the interest received by the Issuing Bank in respect of the period from the date such drawing is honored to, but excluding, the date on which the Issuing Bank is reimbursed for the amount of such drawing (including, without limitation, any such reimbursement out of the proceeds of any Revolving Loans), the amount that such Lender would have been entitled to receive in respect of the letter of credit fee that would have been payable in respect of such Letter of Credit for such period if no drawing had been honored under such Letter of Credit. In the event that the Issuing Bank shall have been reimbursed by the Lenders for all, or any portion, of such honored drawing, the Issuing Bank shall distribute to each Lender which has paid all amounts payable by it under Section 2.3(e) with respect to such honored drawing such Lender's Revolving Commitment Percentage of any interest received by the Issuing Bank in respect of that portion of such honored drawing so reimbursed by the Lenders for the period from, and including, the date on which the Issuing Bank was so reimbursed by the Lenders to, but excluding, the date on which such portion of such honored drawing is reimbursed by the Borrowers.

(h) In connection with the use and/or administration of SOFR, the SOFR Reference Rate (for any applicable tenor) and/or any SOFR-Based Rate, the Administrative Agent shall have the right to make Conforming Changes from time to time and, notwithstanding anything to the contrary in this Agreement or in any other Credit Document, any amendment(s) implementing any such Conforming Changes shall become effective without any further action(s) and/or consent(s) of any other party to this Agreement or any other Credit Document or of any other Person. The Administrative Agent shall promptly notify the Borrower and the Lenders of the effectiveness of any Conforming Changes implemented in connection with the use and/or administration of SOFR, the SOFR Reference Rate (for any applicable tenor) and/or any SOFR-Based Rate.

Section 2.8 Conversion/Continuation.

(a) So long as no Default or Event of Default shall have occurred and be continuing or would result therefrom (unless the Administrative Agent and each of the Lenders shall have otherwise consented in writing), each Borrower shall have the option:

(i) to convert, at any time, all, or any part of, any outstanding Loan, in a minimum amount of One Million Dollars (\$1,000,000) or, if greater, an integral multiple of \$1,000,000 in excess thereof, from one (1) Type of Loan to another Type of Loan; provided, that, a SOFR Loan may only be converted on the expiration of the then-current Interest Period applicable to such SOFR Loan, unless the applicable Borrower shall pay all amounts due under Section 3.1(c) in connection with any such conversion; or

(ii) upon the expiration of any then-current Interest Period applicable to any SOFR Loan, to continue all, or any portion, of such Loan as a SOFR Loan;

in each case of the foregoing, subject to any restrictions on conversions and/or continuations of outstanding Loans set forth in Section 2.7(b).

(b) The applicable Borrower shall deliver a Conversion/Continuation Notice to the Administrative Agent by *no later than 1:00 p.m. at least three (3) Business Days* in advance of the proposed Conversion/Continuation Date. Except as otherwise expressly provided in this Agreement, a Conversion/Continuation Notice for a conversion of outstanding Loans to, or a continuation of outstanding Loans as, SOFR Loans (or any telephonic notice in lieu thereof) shall be irrevocable on and after the related Interest Rate Determination Date, and such Borrower shall be bound to effect a conversion or continuation in accordance therewith.

Section 2.9 Default Rate of Interest.

(a) If any amount payable by the Borrowers under any Credit Document is not paid when due, whether at stated maturity, by acceleration or otherwise, such amount shall thereafter bear interest at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(b) During the continuance of an Event of Default under Section 9.1(f) or Section 9.1(g), the Borrowers shall pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(c) During the continuance of an Event of Default other than an Event of Default under Section 9.1(a), Section 9.1(f) or Section 9.1(g), the Borrowers shall, at the request of the Required Lenders, pay interest on the principal amount of all outstanding Obligations hereunder at a fluctuating interest rate per annum at all times equal to the Default Rate to the fullest extent permitted by Applicable Laws.

(d) Accrued and unpaid interest on past due amounts (including interest on past due interest) shall be due and payable upon demand.

(e) With respect to any outstanding SOFR Loan at the time an imposition of the Default Rate of interest becomes effective, upon the expiration of the applicable Interest Period then in effect for such SOFR Loan, such SOFR Loan shall thereupon automatically be converted to a Base Rate Loan and shall thereafter bear interest at the Default Rate of interest then in effect for Base Rate Loans. Payment or acceptance of the increased rates of interest provided for in this Section 2.9 is not a permitted alternative to timely payment, and shall not constitute a waiver of any Default or Event of Default or otherwise prejudice or limit any rights or remedies of the Administrative Agent, the Collateral Agent or any of the Lenders.

Section 2.10 Fees.

(a) Commitment Fee. The Borrowers shall pay to the Administrative Agent for the account of each Lender in accordance with its Revolving Commitment Percentage, a commitment fee (the "Commitment Fee") equal to the Applicable Margin of the actual daily amount by which the Aggregate Revolving Commitments exceeds the Total Revolving Outstandings, subject to adjustments as provided in Section 2.16. The Commitment Fee shall accrue at all times during the Revolving Commitment Period, including at any time during which one or more of the conditions in Section 5 is not met, and shall be due and payable quarterly in arrears on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the Effective Date, and on the Revolving Commitment Termination Date; provided that (1) no Commitment Fee shall accrue on any of the Revolving Commitment of a Defaulting Lender so long as such Lender shall be a Defaulting Lender and (2) any Commitment Fee accrued with respect to the Revolving Commitment of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrowers so long as such Lender shall be a Defaulting Lender. The Commitment Fee shall be calculated quarterly in arrears, and if there is any change in the Applicable Margin during any quarter, the actual daily amount shall be computed and multiplied by the Applicable Margin separately for each period during such quarter that such Applicable Margin was in effect. For purposes hereof, Swingline Loans shall not be counted toward or be considered as usage of the Aggregate Revolving Commitments.

(b) Letter of Credit Fees.

(i) Commercial and Standby Letter of Credit Fees. The Borrowers shall pay to the Administrative Agent for the account of each Lender in accordance with its Revolving Commitment Percentage (A) a Letter of Credit fee for each commercial Letter of Credit equal to one-tenth of one percent (0.10%) per annum multiplied by the daily maximum amount available to be drawn under such Letter of Credit, and (B) a Letter of Credit fee for each standby Letter of Credit equal to the Applicable Margin multiplied by the daily maximum amount available to be drawn under such Letter of Credit (collectively, the "Letter of Credit Fees"). For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.3(i). The Letter of Credit Fees shall be computed on a quarterly basis in arrears, and shall be due and payable on the last Business Day of each March, June, September and December, commencing with the first such date to occur after the issuance of such Letter of Credit, on the expiration date thereof and thereafter on demand; provided that (1) no Letter of Credit Fees shall accrue in favor of a Defaulting Lender so long as such Lender shall be a Defaulting Lender and (2) any Letter of Credit Fees accrued in favor of a Defaulting Lender during the period prior to the time such Lender became a Defaulting Lender and unpaid at such time shall not be payable by the Borrowers so long as such Lender shall be a Defaulting Lender. If there is any change in the Applicable Margin during any quarter, the daily maximum amount available to be drawn under each standby Letter of Credit shall be computed and multiplied by the Applicable Margin separately for each period during such quarter that such Applicable Margin was in effect. Notwithstanding anything to the contrary contained herein, during the continuance of an Event of Default under Sections 9.1(f) and (g), all Letter of Credit Fees shall accrue at the Default Rate, and during the continuance of an Event of Default other than an Event of Default under Sections 9.1(f) or (g), then upon the request of the Required Lenders, all Letter of Credit Fees shall accrue at the Default Rate.

(ii) Fronting Fee and Documentary and Processing Charges Payable to Issuing Bank. The Borrowers shall pay directly to each Issuing Bank for its own account a fronting fee (A) with respect to each commercial Letter of Credit or any amendment of a commercial Letter of Credit increasing the amount of such Letter of Credit, at a rate separately agreed between the Borrowers and the applicable Issuing Bank, computed on the amount of such commercial Letter of Credit or the amount of such increase, as applicable, and payable upon the issuance of such commercial Letter of Credit or effectiveness of such amendment, as applicable, and (B) with respect to each standby Letter of Credit, at the rate per annum specified in the Fee Letter, computed on the daily amount available to be drawn under such Letter of Credit on a quarterly basis in arrears. Such fronting fee shall be due and payable on the last Business Day of each March, June, September and December in respect of the most recently-ended quarterly period (or portion thereof, in the case of the first payment), commencing with the first such date to occur after the issuance of such Letter of Credit, on its expiration date and thereafter on demand. For purposes of computing the daily amount available to be drawn under any Letter of Credit, the amount of such Letter of Credit shall be determined in accordance with Section 1.3(i). In addition, the Borrowers shall pay directly to the Issuing Bank for its own account the customary issuance, presentation, amendment and other processing fees, and other standard costs and charges, of the Issuing Bank relating to letters of credit as from time to time in effect. Such customary fees and standard costs and charges are due and payable on demand and are nonrefundable.

(c) Other Fees. The Borrowers shall pay to Regions Capital Markets, a division of Regions Bank, and the Administrative Agent for their own respective accounts fees in the amounts and at the times specified in the Fee Letter. Such fees shall be fully earned when paid and shall not be refundable for any reason whatsoever, except to the extent set forth in the Fee Letter.

Section 2.11 Prepayments/Commitment Reductions.

(a) Voluntary Prepayments.

(i) Any time and from time to time, the Loans may be repaid, in whole or in part without premium or penalty (subject to Section 3.1), as follows:

(A) with respect to any Base Rate Loans (including, without limitation, Loans bearing interest at a rate determined by reference to clause (c) of the definition of "Base Rate" in Section 1.1), each Borrower may prepay such Loans on any Business Day, in whole or in part, in an aggregate minimum amount of \$500,000 and, if greater, in an integral multiple of \$100,000 in excess of thereof;

(B) with respect to any SOFR Loans, the Borrowers may prepay such Loans on any Business Day, in whole or in part (together with any amounts due pursuant to Section 3.1(c)), in an aggregate minimum amount of \$500,000 and, if greater, in an integral multiple of \$100,000 in excess thereof; and

(C) with respect to any Swingline Loans, the Borrowers may prepay any Loans on any Business Day, in whole or in part, in any reasonable amount;

(ii) All prepayments of outstanding Loans, in whole or in part, in accordance with the foregoing clause (a) shall be made:

(A) upon written or telephonic notice on the date of such prepayment, in the case of prepayments of Base Rate Loans or Swingline Loans; and

(B) upon not less than three (3) Business Days' prior written or telephonic notice, in the case of prepayments of SOFR Loans;

in each case given to the Administrative Agent, or the Swingline Lender, as the case may be, by *no later than* 11:00 a.m. on the date required and, if given by telephone, promptly confirmed in writing to the Administrative Agent (and the Administrative Agent will promptly transmit such telephonic or original notice for a Credit Extension by telefacsimile or telephone to each Lender). Upon the giving of any such notice, the principal amount of the Loans specified in such notice shall become due and payable on the prepayment date specified therein. Any such voluntary prepayment shall be applied as specified in Section 2.12(a).

(b) Voluntary Commitment Reductions.

(i) The Borrowers may, from time to time upon not less than three (3) Business Days' prior written or telephonic notice confirmed in writing to the Administrative Agent (which original written or telephonic notice the Administrative Agent will promptly transmit by telefacsimile or telephone to each applicable Lender), at any time and from time to time terminate in whole or permanently reduce in part (i) the Revolving Commitments (ratably among the Lenders in accordance with their respective commitment percentage thereof); provided, (A) any such partial reduction of the Revolving Commitments shall be in an aggregate minimum amount of \$5,000,000 and integral multiples of \$1,000,000 in excess of that amount, (B) the Borrowers shall not terminate or reduce the Aggregate Revolving Commitments if, after giving effect thereto and to any concurrent prepayments hereunder, the aggregate Total Revolving Outstandings exceed the Aggregate Revolving Commitments and (C) if, after giving effect to any reduction of the Aggregate Revolving Commitments, the Letter of Credit Sublimit and/or the Swingline Sublimit exceed the amount of the Aggregate Revolving Commitments, the Letter of Credit Sublimit and/or the Swingline Sublimit, as applicable, shall be automatically reduced by the amount of such excess.

(ii) The Borrowers' notice to the Administrative Agent shall designate the date (which shall be a Business Day) of such termination or reduction and the amount of any partial reduction, and such termination or reduction of the Revolving Commitments shall be effective on the date specified in the Borrowers' notice and shall reduce the Revolving Commitments of each Lender proportionately to its Revolving Commitment Percentage thereof.

(c) Mandatory Prepayments. If at any time (i) the Total Revolving Outstandings shall exceed the Aggregate Revolving Commitments, (ii) the Outstanding Amount of Letter of Credit Obligations shall exceed the Letter of Credit Sublimit, or (iii) the Outstanding Amount of Swingline Loans shall exceed the Swingline Sublimit, the Borrowers shall make an immediate prepayment on the Revolving Obligations and/or Cash Collateralize the Letter of Credit Obligations in an amount equal to such excess; provided, however, that, except with respect to clause (B), Letter of Credit Obligations will not be Cash Collateralized hereunder until the Revolving Loans and Swingline Loans have been paid in full.

Section 2.12 Application of Prepayments. Within each Loan, prepayments will be applied first to Base Rate Loans, then to SOFR Loans in direct order of Interest Period maturities. In addition:

(a) Voluntary Prepayments. Voluntary prepayments will be applied as specified by the Borrowers.

(b) Mandatory Prepayments. Mandatory prepayments shall be applied to the respective Revolving Obligations as appropriate but without a permanent reduction thereof.

(c) Prepayments on the Obligations will be paid by the Administrative Agent to the Lenders ratably in accordance with their respective interests therein (except for Defaulting Lenders where their share will be applied as provided in Section 2.16(a)(ii) hereof).

Section 2.13 General Provisions Regarding Payments.

(a) All payments by the Borrowers of principal, interest, fees and other Obligations hereunder or under any other Credit Document shall be made in Dollars in immediately available funds, without defense, recoupment, setoff or counterclaim, free of any restriction or condition. The Administrative Agent shall, and each Borrower hereby authorizes the Administrative Agent to, debit a deposit account of the Borrowers or any of their Subsidiaries held with the Administrative Agent or any of its Affiliates and designated for such purpose by the Borrowers or such Subsidiary in order to cause timely payment to be made to the Administrative Agent of all principal, interest and fees due hereunder or under any other Credit Document (subject to sufficient funds being available in its accounts for that purpose).

(b) In the event that the Administrative Agent is unable to debit a deposit account of the Borrowers or any of their Subsidiaries held with the Administrative Agent or any of its Affiliates in order to cause timely payment to be made to the Administrative Agent of all principal, interest and fees due hereunder or any other Credit Document (including because insufficient funds are available in its accounts for that purpose), payments hereunder and under any other Credit Document shall be delivered to the Administrative Agent, for the account of the Lenders, not later than 2:00 p.m. on the date due at the Principal Office of the Administrative Agent or via wire transfer of immediately available funds to an account designated by the Administrative Agent (or at such other location as may be designated in writing by the Administrative Agent from time to time); for purposes of computing interest and fees, funds received by the Administrative Agent after that time on such due date shall be deemed to have been paid by the Borrowers on the next Business Day.

(c) All payments in respect of the principal amount of any Loan (other than voluntary repayments of Revolving Loans) shall be accompanied by payment of accrued interest on the principal amount being repaid or prepaid, and all such payments (and, in any event, any payments in respect of any Loan on a date when interest is due and payable with respect to such Loan) shall be applied to the payment of interest then due and payable before application to principal.

(d) The Administrative Agent shall promptly distribute to each Lender at such address as such Lender shall indicate in writing, such Lender's applicable pro rata share of all payments and prepayments of principal and interest due to such Lender hereunder, together with all other amounts due with respect thereto, including all fees payable with respect thereto, to the extent received by the Administrative Agent.

(e) Notwithstanding the foregoing provisions hereof, if any Conversion/Continuation Notice is withdrawn as to any Affected Lender or if any Affected Lender makes Base Rate Loans in lieu of its pro rata share of any SOFR Loans, the Administrative Agent shall give effect thereto in apportioning payments received thereafter.

(f) Subject to the provisos set forth in the definition of "Interest Period," whenever any payment to be made hereunder shall be stated to be due on a day that is not a Business Day, such payment shall be made on the next succeeding Business Day and such extension of time shall be included in the computation of the payment of interest hereunder or of the Commitment Fee hereunder, but such payment shall be deemed to have been made on the date therefor for all other purposes hereunder.

(g) The Administrative Agent may, but shall not be obligated to, deem any payment by or on behalf of the Borrowers hereunder that is not made in same day funds prior to 2:00 p.m. to be a non-conforming payment. Any such payment shall not be deemed to have been received by the Administrative Agent until the later of (i) the time such funds become available funds, and (ii) the applicable next Business Day. The Administrative Agent shall give prompt telephonic notice to the Borrowers and each applicable Lender (confirmed in writing) if any payment is non-conforming. Any non-conforming payment may constitute or become a Default or Event of Default in accordance with the terms of Section 9.1(a). Interest shall continue to accrue on any principal as to which a non-conforming payment is made until such funds become available funds (but in no event less than the period from the date of such payment to the next succeeding applicable Business Day) at the Default Rate (unless otherwise provided by the Required Lenders) from the date such amount was due and payable until the date such amount is paid in full.

Section 2.14 Sharing of Payments by Lenders. If any Lender shall, by exercising any right of setoff or counterclaim or otherwise, obtain payment in respect of any principal of or interest on any of its Loans or other obligations hereunder resulting in such Lender receiving payment of a proportion of the aggregate amount of such Loans and accrued interest thereon or other such obligations greater than its pro rata share thereof as provided herein, then the Lender receiving such greater proportion shall (a) notify the Administrative Agent of such fact, and (b) purchase (for cash at face value) participations in the Loans and such other obligations of the other Lenders, or make such other adjustments as shall be equitable, so that the benefit of all such payments shall be shared by the Lenders ratably in accordance with the aggregate amount of principal of and accrued interest on their respective Loans and other amounts owing them; provided that:

(i) if any such participations are purchased and all or any portion of the payment giving rise thereto is recovered, such participations shall be rescinded and the purchase price restored to the extent of such recovery, without interest; and

(ii) the provisions of this Section shall not be construed to apply to (A) any payment made by the Borrowers pursuant to and in accordance with the express terms of this Agreement (including the application of funds arising from the existence of a Defaulting Lender), (B) any amounts applied by the Swingline Lender to outstanding Swingline Loans, (C) any amounts applied to Letter of Credit Obligations by any Issuing Bank or Swingline Loans by the Swingline Lender, as appropriate, from Cash Collateral provided under Section 2.15 or Section 2.16, or (D) any payment obtained by a Lender as consideration for the assignment of or sale of a participation in any of its Loans or participations in Letter of Credit Obligations, Swingline Loans or other obligations hereunder to any assignee or participant, other than to the Borrowers or any Subsidiary thereof (as to which the provisions of this Section shall apply).

Each of the Credit Parties consents to the foregoing and agrees, to the extent it may effectively do so under Applicable Law, that any Lender acquiring a participation pursuant to the foregoing arrangements may exercise against such Credit Party rights of setoff and counterclaim with respect to such participation as fully as if such Lender were a direct creditor of such Credit Party in the amount of such participation.

Section 2.15 Cash Collateral. At any time that there shall exist a Defaulting Lender, promptly (and in any event within two (2) Business Days) following the written request of the Administrative Agent or any Issuing Bank (with a copy to the Administrative Agent) the Borrowers shall Cash Collateralize each applicable Issuing Banks' Fronting Exposure with respect to such Defaulting Lender in an amount sufficient to cover the applicable Fronting Exposure (after giving effect to Section 2.16(a)(iv) and any Cash Collateral provided by the Defaulting Lender).

(a) Grant of Security Interest. Each Borrower, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grants to the Administrative Agent, for the benefit of the Issuing Banks, and agrees to maintain, a perfected first priority security interest in all such Cash Collateral as security for the Defaulting Lenders' obligation to fund participations in respect of Letter of Credit Obligations, to be applied pursuant to clause (b) below. If at any time the Administrative Agent determines that Cash Collateral is subject to any right or claim of any Person other than the Administrative Agent and the Issuing Banks as herein provided, or that the total amount of such Cash Collateral is less than the applicable Fronting Exposure, the Borrowers will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional Cash Collateral in an amount sufficient to eliminate such deficiency (after giving effect to any Cash Collateral provided by the Defaulting Lender).

(b) Application. Notwithstanding anything to the contrary contained in this Agreement, Cash Collateral provided under this Section 2.15 or Section 2.16 in respect of Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Obligations (including, as to Cash Collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the Cash Collateral was so provided, prior to any other application of such property as may otherwise be provided for herein.

(c) Termination of Requirement. Cash Collateral (or the appropriate portion thereof) provided to reduce any Issuing Bank's Fronting Exposure shall no longer be required to be held as Cash Collateral pursuant to this Section 2.15 following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and each Issuing Bank that there exists excess Cash Collateral; provided, however, (x) that Cash Collateral furnished by or on behalf of a Credit Party shall not be released during the continuance of a Default or Event of Default (and following application as provided in this Section 2.15 may be otherwise applied in accordance with Section 9.3) but shall be released upon the cure, termination or waiver of such Default or Event of Default in accordance with the terms of this Agreement, and (y) the Person providing Cash Collateral and any Issuing Bank or Swingline Lender, as applicable, may agree that Cash Collateral shall not be released but instead held to support future anticipated Fronting Exposure or other obligations.

Section 2.16 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by Applicable Law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in Section 11.4(a)(iii).

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amount (other than fees which any Defaulting Lender is not entitled to receive pursuant to Section 2.16(a)(iii)) received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Section 9 or otherwise, and including any amounts made available to the Administrative Agent by that Defaulting Lender pursuant to Section 11.3), shall be applied at such time or times as may be determined by the Administrative Agent as follows: first, to the payment of any amounts owing by that Defaulting Lender to the Administrative Agent hereunder; second, to the payment on a pro rata basis of any amounts owing by that Defaulting Lender to any Issuing Bank or the Swingline Lender hereunder; third, to Cash Collateralize the Issuing Bank's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.15; fourth, as the Borrowers may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which that Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; fifth, if so determined by the Administrative Agent and the Borrowers, to be held in a non-interest bearing deposit account and released in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) Cash Collateralize the Issuing Bank's future Fronting Exposure with respect to such Defaulting Lender with respect to future Letters of Credit issued under this Agreement, in accordance with Section 2.15; sixth, to the payment of any amounts owing to the Lenders, the Issuing Banks or the Swingline Lender as a result of any judgment of a court of competent jurisdiction obtained by any Lender, any Issuing Bank or the Swingline Lender against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; seventh, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers against that Defaulting Lender as a result of that Defaulting Lender's breach of its obligations under this Agreement; and eighth, to that Defaulting Lender or as otherwise directed by a court of competent jurisdiction; provided, that, if (x) such payment is a payment of the principal amount of any Loans or Letter of Credit Borrowings in respect of which that Defaulting Lender has not fully funded its appropriate share and (y) such Loans or Letter of Credit Borrowings were made at a time when the conditions set forth in Section 5.2 were satisfied or waived, such payment shall be applied solely to the pay the Loans of, and Letter of Credit Borrowings owed to, all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Loans of, or Letter of Credit Borrowings owed to, such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Obligations and Swingline Loans are held by the Lenders pro rata in accordance with their Revolving Commitments without giving effect to Section 2.16(a)(iv). Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender or to post Cash Collateral pursuant to this Section 2.16(a)(ii) shall be deemed paid to (and the underlying obligations satisfied to the extent of such payment) and redirected by that Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(A) Such Defaulting Lender shall not be entitled to receive any Commitment Fee, any fees with respect to Letters of Credit (except as provided in clause (b) below) or any other fees hereunder for any period during which that Lender is a Defaulting Lender (and the Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(B) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its Revolving Commitment Percentage of the stated amount of Letters of Credit for which it has provided Cash Collateral pursuant to Section 2.15.

(C) With respect to any fee not required to be paid to any Defaulting Lender pursuant to clause (A) or (B) above, the Borrowers shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Obligations or Swingline Loans that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to each Issuing Bank and Swingline Lender, as applicable, the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to such Issuing Bank's or Swingline Lender's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letter of Credit Obligations and Swingline Loans shall be reallocated among the Non-Defaulting Lenders in accordance with their respective Revolving Commitment Percentages (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that (x) the conditions set forth in Section 5.2 are satisfied at the time of such reallocation (and, unless the Borrowers shall have otherwise notified the Administrative Agent at such time, the Borrowers shall be deemed to have represented and warranted that such conditions are satisfied at such time), (y) such reallocation does not cause the aggregate Revolving Credit Exposure at such time to exceed such Non-Defaulting Lender's Revolving Commitment and (z) such Defaulting Lender's participation in Letter of Credit Obligations and Swingline Loans has not been fully Cash Collateralized. Subject to Section 11.23, no reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral, Repayment of Swingline Loans. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrowers shall, without prejudice to any right or remedy available to it hereunder or under law, (x) first, prepay Swingline Loans in an amount equal to the Swingline Lender's Fronting Exposure and (y) second, Cash Collateralize each Issuing Bank's Fronting Exposure in accordance with the procedures set forth in Section 2.15.

(b) Defaulting Lender Cure. If the Borrowers, the Administrative Agent and the Swingline Lender and each Issuing Bank agree in writing that a Lender is no longer a Defaulting Lender, the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any Cash Collateral), that Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Letters of Credit and Swingline Loans to be held pro rata by the Lenders in accordance with the Revolving Commitments (without giving effect to Section 2.16(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; provided that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; and provided, further, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender.

(c) New Swingline Loans/Letters of Credit. So long as any Lender is a Defaulting Lender, (i) the Swingline Lender shall not be required to fund Swingline Loans unless it is satisfied that it will have no Fronting Exposure after giving effect to such Swingline Loan, and (ii) no Issuing Bank shall be required to issue, extend, renew or increase any Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(d) Remedies Not Exclusive. The rights and remedies against a Defaulting Lender under this Section 2.16 are in addition to all other rights and remedies the Borrowers, the Administrative Agent and any Lender may have against such Defaulting Lender under Applicable Laws.

Section 2.17 Removal or Replacement of Lenders. If (a) any Lender requests compensation under Section 3.2, (b) any Credit Party is required to pay any additional amount to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.3, (c) any Lender gives notice of an inability to fund SOFR Loans under Section 3.1(b), (d) any Lender is a Defaulting Lender, or (e) any Lender (a "Non-Consenting Lender") does not consent (including by way of a failure to respond in writing to a proposed amendment, consent or waiver by the date and time specified by the Administrative Agent) to a proposed amendment, consent, change, waiver, discharge or termination hereunder or with respect to any Credit Document that has been approved by the Required Lenders, then the Borrowers may, at their sole expense and effort, upon notice to such Lender and the Administrative Agent, require such Lender to assign and delegate without recourse (in accordance with and subject to the restrictions contained in, and consents required by, Section 11.5), all of its interests, rights (other than its rights under Section 3.2, Section 3.3 and Section 11.2) and obligations under this Agreement and the related Credit Documents to an Eligible Assignee that shall assume such obligations (which assignee may be another Lender, if a Lender accepts such assignment), provided that:

(i) the Borrowers shall have paid to the Administrative Agent the assignment fee specified in Section 11.5(b)(iv);

(ii) such Lender shall have received payment of an amount equal to the outstanding principal of its Loans and participations in Letter of Credit Borrowings, as applicable, accrued interest thereon, accrued fees and all other amounts payable to it hereunder and under the other Credit Documents (including any amounts under Section 3.1(c)) from the assignee (to the extent of such outstanding principal and accrued interest and fees) or the Borrowers (in the case of all other amounts);

(iii) in the case of any such assignment resulting from a claim for compensation under Section 3.2 or payments required to be made pursuant to Section 3.3, such assignment is reasonably expected to result in a reduction in such compensation or payments thereafter;

(iv) such assignment does not conflict with Applicable Law; and

(v) in the case of any such assignment resulting from a Non-Consenting Lender's failure to consent to a proposed amendment, consent, change, waiver, discharge or termination, the successor replacement Lender shall have consented to the proposed amendment, consent, change, waiver, discharge or termination.

Each Lender agrees that in the event it, or its interests in the Loans and obligations hereunder, shall become subject to the replacement and removal provisions of this Section 2.17, it will cooperate with the Borrowers and the Administrative Agent to give effect to the provisions hereof, including execution and delivery of an Assignment Agreement in connection therewith, but the replacement and removal provisions of this Section 2.17 shall be effective regardless of whether an Assignment Agreement shall have been given.

A Lender shall not be required to make any such assignment or delegation if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and delegation cease to apply.

Section 2.18 Additional Borrowers.

(a) Upon not less than fifteen (15) Business Days' notice to the Administrative Agent (or such shorter period as may be agreed by the Administrative Agent in its sole discretion), the Borrowers may request the addition of any of their Domestic Subsidiaries (an "Additional Borrower") as a Borrower hereunder by delivering to the Administrative Agent (which shall promptly deliver counterparts thereof to each Lender) a duly executed notice and agreement in substantially the form of Exhibit 2.18-1 (a "Borrower Request and Assumption Agreement"). The parties hereto acknowledge and agree that prior to any Additional Borrower becoming entitled to utilize the credit facilities provided for herein, the Administrative Agent and the Lenders shall have received Organizational Documents, such supporting resolutions, incumbency certificates, opinions of counsel and other documents or information (including, without limitation, any documentation or other information that the Administrative Agent or any Lender requests in for purposes of its "know your customer", anti-money laundering or beneficial ownership diligence), in form, content and scope reasonably satisfactory to the Administrative Agent, as may be required by the Administrative Agent or the Required Lenders in their reasonable discretion, and Notes signed by such Additional Borrower to the extent any Lenders so require. If the Administrative Agent and all of the Lenders execute and deliver an acknowledgement and agreement to the Borrower Request and Assumption Agreement, then promptly following receipt of all such requested Organizational Documents, resolutions, incumbency certificates, opinions of counsel and other documents or information, the Administrative Agent shall send a notice in substantially the form of Exhibit 2.18-2 (a "New Borrower Notice") to the Borrowers and the Lenders specifying the effective date upon which the Additional Borrower shall constitute a Borrower for purposes hereof (such date, the "New Borrower Effective Date"). Commencing as of the New Borrower Effective Date, (x) the Administrative Agent and each of the Lenders agrees to permit the applicable Additional Borrower to receive Loans and other credit extensions hereunder, on the terms and conditions set forth herein, and (y) each of the parties agrees that such Additional Borrower otherwise shall be a "Borrower" and a "Credit Party" for all purposes of this Agreement. For the avoidance of doubt, prior to the occurrence of the New Borrower Effective Date with respect to an Additional Borrower, such Additional Borrower shall not constitute a "Borrower" hereunder and shall not have the right to request Loans or other extensions of credit hereunder.

(b) The Obligations of each Person that becomes a Borrower pursuant to this Section 2.18 that shall be joint and several in nature as provided in Section 2.20.

(c) Each Person that becomes a Borrower pursuant to this Section 2.18 shall also take such actions as are necessary to require such Person to become an "Obligor" under the Pledge and Security Agreement and to otherwise comply with Section 7.11 in all respects.

Section 2.19 Appointment of Borrower Agent. Each of the Borrowers hereby irrevocably appoints the Parent as its agent (the "Borrower Agent") for all purposes relevant to this Agreement and each of the other Credit Documents, including (a) the giving and receipt of notices, (b) the execution and delivery of all documents, instruments and certificates contemplated herein and all modifications hereto, and (c) the receipt of the proceeds of any Loans made by the Lenders to any Borrower. Any acknowledgment, consent, direction, certification or other action which might otherwise be valid or effective only if given or taken by all Borrowers, or by each Borrower acting singly, shall be valid and effective if given or taken only by the Borrower Agent, whether or not any such other Borrower joins therein. Any notice, demand, consent, acknowledgement, direction, certification or other communication delivered to the Borrower Agent in accordance with the terms of this Agreement shall be deemed to have been delivered to each Credit Party.

Section 2.20 Joint and Several Liability.

(a) The Obligations of the Borrowers hereunder shall be joint and several in nature regardless of which such Person actually receives or received (or receives or received the proceeds of) Loans, Letters of Credit and other extensions of credit hereunder or the amount of such Loans, Letters of Credit and other extensions of credit received or the manner in which the Administrative Agent or any Lender accounts for such Loans, Letters of Credit and other extensions of credit on its books and records. Each Borrower's obligations with respect to Loans, Letters of Credit and other extensions of credit made to it hereunder, and each such Borrower's obligations arising as a result of the joint and several liability of such Borrower hereunder, with respect to Loans, Letters of Credit and other extensions of credit made to and other Obligations owing by the other Borrowers hereunder shall be primary obligations of each such Borrower.

(b) The obligations of the Borrowers under clause (a) above are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Credit Documents, any Secured Swap Agreement, any Secured Treasury Management Agreement, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by Applicable Law, irrespective of any law or regulation or other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 2.20 that the obligations of the Borrowers hereunder shall be absolute and unconditional under any and all circumstances. Each Borrower agrees that with respect to its obligations under the foregoing clause (a), such Borrower shall have no right of subrogation, indemnity, reimbursement or contribution against the any other Borrower for amounts paid under this Section 2.20 until such time as the Obligations have been paid in full and the Revolving Commitments have expired or terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Borrower under the foregoing clause (a), which shall remain absolute and unconditional as described above:

(i) at any time or from time to time, without notice to any Borrower, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;

(ii) any of the acts mentioned in any of the provisions of any of the Credit Documents, any Secured Swap Agreement, any Secured Treasury Management Agreement, or any other agreement or instrument referred to in such Credit Documents, Secured Swap Agreements or Secured Treasury Management Agreements, shall be done or omitted;

(iii) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Credit Documents, any Secured Swap Agreement, any Secured Treasury Management Agreement, or any other agreement or instrument referred to in such Credit Documents, Secured Swap Agreements or Secured Treasury Management Agreements, shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;

(iv) any Lien granted to, or in favor of, the Administrative Agent or any Lender or Lenders as security for any of the Obligations shall fail to attach or be perfected; or

(v) any of the Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Borrower) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Borrower).

With respect to its obligations under the foregoing clause (a), each Borrower hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against any Person under any of the Credit Documents, any Secured Swap Agreement, any Secured Treasury Management Agreement, or any other agreement or instrument referred to in such Credit Documents, Secured Swap Agreements, Secured Treasury Management Agreements, or against any other Person under any other guarantee of, or security for, any of the Obligations.

Section 3. YIELD PROTECTION

Section 3.1 Making or Maintaining SOFR Loans; Benchmark Replacement.

(a) Inability to Determine Rates. Notwithstanding anything to the contrary in this Agreement or any other Credit Document (provided, that, for the avoidance of doubt, any Swap Agreement shall be deemed *not* to be a "Credit Document" for purposes of this Section 3.1), in the event that (i) the Administrative Agent shall have determined (which determination shall be final and conclusive and binding upon all parties to this Agreement), on any Interest Rate Determination Date with respect to any SOFR Loans, that reasonable and adequate means do not exist for ascertaining the interest rate applicable to such SOFR Loans on the basis provided for in the definition of "*Adjusted Term SOFR*" (and any related defined terms used therein) in Section 1.1, then the Administrative Agent shall give notice (either by telefacsimile or by telephone confirmed in writing) to the Borrowers and each Lender of such determination, whereupon and whereafter, (i) no Loans may or shall be made as, or continued as or converted into, SOFR Loans until such time as the Administrative Agent shall have notified the Borrowers and the Lenders in writing that the event(s) and/or circumstance(s) giving rise to such initial determination no longer exist, (ii) any Funding Notice(s) and/or any Conversion / Continuation Notice(s) given by any Borrower with respect to any Loan(s) in respect of which such determination was made shall be deemed to have been rescinded by such Borrower, and (iii) all such Loan(s) described in the foregoing clause (a)(ii) shall be automatically made or continued as, or converted into, as applicable, Base Rate Loans on the last day of the then-current Interest Period applicable thereto (without reference to clause (c) of the definition of "*Base Rate*" in Section 1.1), unless the Borrowers shall have prepaid such Loan(s) in accordance with this Agreement; provided, that, if the event(s) and/or circumstance(s) giving rise to such initial determination shall have occurred but only with respect to certain (but *not* all) of the tenors of the then applicable term rate Benchmark (including, for the avoidance of doubt, the SOFR Reference Rate for any applicable tenor), then (A) the Administrative Agent may modify the definition of "*Interest Period*" in Section 1.1 (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such illegal or impracticable tenor, and (B) if a tenor that was removed pursuant to the foregoing clause (a)(A) is subsequently displayed on a screen or information service for a Benchmark, then the Administrative Agent may modify the definition of "*Interest Period*" in Section 1.1 (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(b) Illegality or Impracticability of the Benchmark. Subject to clause (g) below, in the event that, on any date, any Lender shall have determined (which determination (A) shall be final and conclusive and binding upon all parties to this Agreement, but (B) shall be made only after written notice to, and consultation with, the Borrowers and the Administrative Agent) that a Benchmark Illegality / Impracticability Event has occurred with respect to such Lender, then such Lender shall be an "*Affected Lender*" and such Lender shall, on that date, give notice (either by telefacsimile or by telephone confirmed in writing) to the Borrowers and the Administrative Agent of such determination (which notice the Administrative Agent shall promptly transmit to each other Lender). Thereafter: (i) the obligation of such Affected Lender to make Loans as, or to continue Loans as or to convert Loans to, SOFR Loans shall be suspended, until such notice shall have been withdrawn by such Affected Lender in writing to the Administrative Agent and the Borrowers; (ii) to the extent that such determination by such Affected Lender relates to a SOFR Loan, or to a continuation thereof or a conversion of outstanding Loans thereto, then being requested by the Borrowers pursuant to a Funding Notice or Conversion / Continuation Notice (as applicable), then the Affected Lender shall make such Loan as (or convert such Loan to, as applicable) a Base Rate Loan, determined without reference to clause (c) of the definition of "*Base Rate*" in Section 1.1; (iii) such Affected Lender's obligation to maintain its outstanding SOFR Loans (the "*Affected Loans*") shall be terminated at the *earlier* to occur of (A) the expiration of the Interest Period then in effect with respect to such Affected Loans, or (B) when required by Applicable Law; and (iv) such Affected Loans shall automatically convert into Base Rate Loans, determined without reference to clause (c) of the definition of "*Base Rate*" in Section 1.1, on the date of such termination described in the foregoing clause (b)(iii). Notwithstanding anything to the contrary in the foregoing of this clause (b), to the extent that a determination by an Affected Lender as described above relates to a SOFR Loan (or a continuation thereof or a conversion of outstanding Loans thereto) then being requested by the Borrowers pursuant to a Funding Notice or Conversion / Continuation Notice (as applicable), then the Borrowers shall have the option, subject to the provisions of the foregoing clause (a), to rescind such Funding Notice or Conversion / Continuation Notice (as applicable) as to all Lenders by giving notice (either by telefacsimile or telephone confirmed in writing) to the Administrative Agent of such rescission on the date on which such Affected Lender gives notice of its determination as described in the foregoing of this clause (b) (which notice of rescission the Administrative Agent shall promptly transmit to each other Lender). Except as otherwise provided in the immediately preceding sentence, nothing in this clause (b) shall affect the obligation of any Lender, other than an Affected Lender, to make or maintain Loans as, or to continue outstanding Loans as or convert outstanding Loans into, SOFR Loans in accordance with the terms of this Agreement. Notwithstanding anything to the contrary in the foregoing, if a Benchmark Illegality / Impracticability Event shall have occurred but only with respect to certain (but *not* all) of the tenors of the then applicable term rate Benchmark (including, for the avoidance of doubt, the SOFR Reference Rate for any applicable tenor), then: (I) the Administrative Agent may modify the definition of "*Interest Period*" in Section 1.1 (or any similar or analogous definition) for any Benchmark settings at or after such time to remove such illegal or impracticable tenor; and (II) if a tenor that was removed pursuant to the foregoing clause (b)(I) is *not*, or is no longer, subject to a Benchmark Illegality / Impracticability Event, then the Administrative Agent may modify the definition of "*Interest Period*" in Section 1.1 (or any similar or analogous definition) for all Benchmark settings at or after such time to reinstate such previously removed tenor.

(c) Compensation for Breakage or Non-Commencement of Interest Periods. The Borrowers shall compensate each Lender, upon written request by such Lender (which request shall set forth the basis for requesting such amounts), for all reasonable out-of-pocket losses, expenses and liabilities (including any interest paid, or calculated to be due and payable, by such Lender to lenders of funds borrowed by it to make or carry its SOFR Loans, and any loss, expense or liability sustained by such Lender in connection with the liquidation or re-employment of such funds, but *excluding* loss of anticipated profits) that such Lender sustains if: (i) for any reason (other than a default by such Lender), a borrowing of any SOFR Loans does *not* occur on a date specified therefor in a Funding Notice (or a telephonic request for borrowing), or a conversion to, or continuation of, any SOFR Loans does *not* occur on a date specified therefor in a Conversion / Continuation Notice (or a telephonic request for conversion or continuation); (ii) any prepayment or other principal payment of, or any conversion of, any of its SOFR Loans occurs on any day other than the last day of an Interest Period applicable to that Loan (whether voluntary, mandatory, automatic, by reason of acceleration, or otherwise), including as a result of an assignment in connection with the replacement of a Lender pursuant to Section 2.17; or (iii) any prepayment of any of its SOFR Loans is *not* made on any date specified in a notice of prepayment given by any Borrower.

(d) Booking of SOFR Loans. Any Lender may make, carry or transfer SOFR Loans at, to, or for the account of any of its branch offices or the office of an Affiliate of such Lender.

(e) Certificates for Reimbursement. A certificate of a Lender setting forth, in reasonable detail, the amount(s) necessary to compensate such Lender, as specified in the foregoing clause (c), and the circumstances giving rise thereto, shall be delivered to the Borrowers and shall be conclusive absent manifest error. In the absence of any such manifest error, the Borrowers shall pay to the applicable Lender or the Issuing Bank, as the case may be, the amount(s) shown as due on any such certificate promptly and, in any event, within ten (10) Business Days after receipt thereof.

(f) Delay in Requests. The Borrowers shall *not* be required to compensate a Lender pursuant to the foregoing clause (c) for any such amount(s) incurred *more than six (6) calendar months prior* to the date on which such Lender shall have delivered to the Borrowers the certificate referenced in the foregoing clause (c).

(g) Benchmark Replacement.

(i) Generally. Notwithstanding anything to the contrary in this Agreement or any other Credit Document, if the Administrative Agent determines (which determination shall be conclusive and binding absent manifest error), or the Required Lenders (individually or jointly) notify the Administrative Agent (with, in the case of the Required Lenders, a copy delivered to the Borrowers) that the Required Lenders (as applicable) have determined, that a Benchmark Illegality / Impracticability Event has occurred, then, on a date and time determined by the Administrative Agent (any such date, a "Benchmark Replacement Date"), which date shall be at the end of an Interest Period or on the relevant Interest Payment Date, as applicable, for interest calculated, the then current Benchmark shall be replaced under this Agreement and the other Credit Documents with: (A) if the then current Benchmark is the SOFR Reference Rate (for any applicable tenor), the Benchmark Replacement referred to in clause (a) of the definition of "Benchmark Replacement" in Section 1.1 without any amendment to, or further action or consent of any other party to, this Agreement or any other Credit Document; or (B) if the then current Benchmark is a Benchmark Replacement, another Benchmark Replacement in accordance with the below clause (g)(ii).

(ii) Amendment. Notwithstanding anything to the contrary in this Agreement or any other Credit Document, (A) if the Administrative Agent determines that any Benchmark (other than the SOFR Reference Rate for any applicable tenor) then in effect is *not* available on, or prior to, the applicable Benchmark Replacement Date, or (B) a Benchmark Illegality / Impracticability Event has occurred with respect to any Benchmark (other than the SOFR Reference Rate for any applicable tenor) then in effect, then, in each case of the foregoing clauses (g)(ii)(A) and (g)(ii)(B), the Administrative Agent and the Borrowers may amend this Agreement *solely* for the purpose of replacing the SOFR Reference Rate (for any applicable tenor), or any then current Benchmark Replacement, in accordance with this Section 3.1 at the end of any applicable Interest Period, relevant Interest Payment Date or payment period for interest calculated, as applicable, with another alternate benchmark rate, in any such case, giving due consideration to any evolving, or then existing, convention(s) for similar Dollar-denominated syndicated credit facilities for such alternative benchmark(s), and, in each case, including any mathematical or other adjustments to such benchmark(s) (giving due consideration to any evolving, or then existing, convention(s) for similar Dollar-denominated syndicated credit facilities for such benchmark(s)), which adjustment(s), or method(s) for calculating such adjustment(s), shall be published on an information service as selected by the Administrative Agent from time to time in its reasonable discretion and may be periodically updated. For the avoidance of doubt, any such proposed rate and adjustment(s) shall constitute a "Benchmark Replacement". Any such amendment shall become effective at 5:00 P.M. (New York City time) on the date that is five (5) Business Days *after* the date on which the Administrative Agent shall have posted a copy of such proposed amendment to all Lenders and the Borrowers, without any further action(s) and/or consent(s) of any Credit Party, any other party to this Agreement or any other Credit Document and/or any other Person, so long as the Administrative Agent has *not* received, by such time, written notice of objection to such Benchmark Replacement from Lenders comprising the Required Lenders.

(iii) Notices. The Administrative Agent shall notify (in one (1) or more notices) the Borrowers and each Lender of the implementation of any Benchmark Replacement.

(iv) Administration of Benchmark Replacement. Any Benchmark Replacement shall be applied in a manner consistent with market practice; provided, that, to the extent that such market practice is *not* administratively feasible for the Administrative Agent, then such Benchmark Replacement shall be applied in a manner as otherwise reasonably determined by the Administrative Agent.

(v) Floor. Notwithstanding anything to the contrary in this Agreement or any other Credit Document, if, at any time, any Benchmark Replacement, as determined in accordance with this Section 3.1 and the related definitions in Section 1.1, shall be *less than* the Floor, then such Benchmark Replacement shall be deemed to equal the Floor for all purposes of this Agreement and the other Credit Documents; provided, that, notwithstanding anything to the contrary in this Agreement or in any other Credit Document, at any time that the applicable interest rate for Base Rate Loans is determined without reference to clause (c) of the definition of "*Base Rate*" in Section 1.1 by operation of this Section 3.1, then the "*Floor*", for purposes of calculating such applicable interest rate, shall be increased by one percent (1.00%) per annum.

(vi) Conforming Changes. In connection with the use, administration, adoption and/or implementation of a Benchmark Replacement, the Administrative Agent will have the right to make Conforming Changes from time to time, and, notwithstanding anything to the contrary in this Agreement or in any other Credit Document, any amendments implementing such Conforming Changes will become effective without any further action(s) and/or consent(s) of any Credit Party, any other party to this Agreement or any other Credit Document and/or any other Person; provided, that, with respect to any such amendment effected in reliance on this clause (g)(vi), the Administrative Agent shall post a copy of such amendment implementing such Conforming Changes to the Borrowers and the Lenders reasonably promptly after such amendment becomes effective.

(vii) Standards for Decisions and Determinations. Any determination, decision, or election that may be made by the Administrative Agent or, if applicable, any Lender (or group of Lenders) pursuant to this clause (g), including, without limitation, any determination with respect to a tenor, rate or adjustment, or of the occurrence or non-occurrence of an event, circumstance or date, and any decision to take, or refrain from taking, any action or any selection, will be conclusive and binding absent manifest error, and may be made in its or their, as applicable, sole discretion, and, in any event, without consent from any Credit Party, any other party to this Agreement or any other Credit Document or any other Person, except, in each case, as expressly required pursuant to this clause (g).

Section 3.2 Increased Costs.

(a) Increased Costs Generally. If any Change in Law shall:

(i) impose, modify or deem applicable any reserve, special deposit, compulsory loan, insurance charge or similar requirement against assets of, deposits with or for the account of, or credit extended or participated in by, any Lender or any Issuing Bank;

(ii) subject any Recipient to any Taxes (other than (A) Indemnified Taxes, (B) Taxes described in clauses (b) through (d) of the definition of Excluded Taxes and (C) Connection Income Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto; or

(iii) impose on any Lender or any Issuing Bank or the secured overnight financing or any other applicable interbank lending market any other condition, cost or expense (other than Taxes) affecting this Agreement or Loans made by such Lender or any Letter of Credit or participation therein;

and the result of any of the foregoing shall be to increase the cost to such Lender or such other Recipient of making, converting to, continuing or maintaining any Loan or of maintaining its obligation to make any such Loan, or to increase the cost to such Lender, such Issuing Bank or such other Recipient of participating in, issuing or maintaining any Letter of Credit (or of maintaining its obligation to participate in or to issue any Letter of Credit), or to reduce the amount of any sum received or receivable by such Lender, Issuing Bank or other Recipient hereunder (whether of principal, interest or any other amount) then, upon request of such Lender, Issuing Bank or other Recipient, the Borrowers will pay to such Lender, Issuing Bank or other Recipient, as the case may be, such additional amount or amounts as will compensate such Lender, Issuing Bank or other Recipient, as the case may be, for such additional costs incurred or reduction suffered.

(b) Capital and Liquidity Requirements. If any Lender, any Issuing Bank or the Swingline Lender (for purposes hereof, may be referred to collectively as "the Lenders" or a "Lender") determines that any Change in Law affecting such Lender or any lending office of such Lender or such Lender's holding company, if any, regarding capital or liquidity ratios or requirements has or would have the effect of reducing the rate of return on such Lender's capital or on the capital of such Lender's holding company, if any, as a consequence of this Agreement, the commitments of such Lender hereunder or the Loans made by, or participations in Letters of Credit and Swingline Loans held by, such Lender, or the Letters of Credit issued by such Issuing Bank, to a level below that which such Lender or such Lender's holding company could have achieved but for such Change in Law (taking into consideration such Lender's policies and the policies of such Lender's holding company with respect to capital adequacy), then from time to time the Borrowers will pay to such Lender, as the case may be, such additional amount or amounts as will compensate such Lender or such Lender's holding company for any such reduction suffered.

(c) Certificates for Reimbursement. A certificate of a Lender or an Issuing Bank setting forth in reasonable detail the amount or amounts necessary to compensate such Lender or such Issuing Bank or its holding company, as the case may be, as specified in paragraph (a) or (b) of this Section and the circumstances giving rise thereto shall be delivered to the Borrowers and shall be conclusive absent manifest error. In the absence of any such manifest error, the Borrowers shall pay such Lender or such Issuing Bank, as the case may be, the amount shown as due on any such certificate within ten (10) Business Days after receipt thereof.

(d) Delay in Requests. Failure or delay on the part of any Lender or any Issuing Bank to demand compensation pursuant to this Section shall not constitute a waiver of such Lender's or such Issuing Bank's right to demand such compensation, provided that the Borrowers shall not be required to compensate a Lender or an Issuing Bank pursuant to this Section for any increased costs incurred or reductions suffered more than six (6) months prior to the date that such Lender or such Issuing Bank, as the case may be, delivers to the Borrowers the certificate referenced in Section 3.2(c) and notifies the Borrowers of such Lender's or such Issuing Bank's intention to claim compensation therefor (except that, if the Change in Law giving rise to such increased costs or reductions is retroactive, then the six-month period referred to above shall be extended to include the period of retroactive effect thereof).

Section 3.3 Taxes.

(a) Issuing Banks. For purposes of this Section 3.3, the term "Lender" shall include any Issuing Bank and the term "Applicable Law" shall include FATCA.

(b) Payments Free of Taxes; Obligation to Withhold; Payments on Account of Taxes. Any and all payments by or on account of any obligation of any Credit Party hereunder or under any other Credit Document shall be made without deduction or withholding for any Taxes, except as required by Applicable Law. If any Applicable Law (as determined in the good faith discretion of an applicable Withholding Agent) requires the deduction or withholding of any Tax from any such payment by a Withholding Agent, then the applicable Withholding Agent shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with Applicable Law and, if such Tax is an Indemnified Tax, then the sum payable by the applicable Credit Party shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section) the applicable Recipient receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(c) Payment of Other Taxes by the Credit Parties. The Credit Parties shall timely pay to the relevant Governmental Authority in accordance with Applicable Law, or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(d) Tax Indemnification.

(i) The Credit Parties shall jointly and severally indemnify each Recipient and shall make payment in respect thereof within ten (10) Business Days after demand therefor, for the full amount of any Indemnified Taxes (including Indemnified Taxes imposed or asserted on or attributable to amounts payable under this Section) payable or paid by such Recipient or required to be withheld or deducted from a payment to such Recipient, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability delivered to the Borrowers by a Lender (with a copy to the Administrative Agent), or by the Administrative Agent on its own behalf or on behalf of a Lender, shall be conclusive absent manifest error.

(ii) Each Lender shall severally indemnify the Administrative Agent within ten (10) Business Days after demand therefor, for (i) any Indemnified Taxes attributable to such Lender (but only to the extent that any Credit Party has not already indemnified the Administrative Agent for such Indemnified Taxes and without limiting the obligation of the Credit Parties to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 11.5(d) relating to the maintenance of a Participant Register and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Credit Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of such payment or liability delivered to any Lender by the Administrative Agent shall be conclusive absent manifest error. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Credit Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this clause (ii).

(e) Evidence of Payments. As soon as practicable after any payment of Taxes by any Credit Party to a Governmental Authority pursuant to this Section, such Credit Party shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of a return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Status of Lenders; Tax Documentation.

(i) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Credit Document shall deliver to the Borrowers and the Administrative Agent, at the time or times reasonably requested by any Borrower or the Administrative Agent, such properly completed and executed documentation reasonably requested by any Borrower or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by any Borrower or the Administrative Agent, shall deliver such other documentation prescribed by Applicable Law or reasonably requested by any Borrower or the Administrative Agent as will enable the Borrowers or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements. Notwithstanding anything to the contrary in the preceding two sentences, the completion, execution and submission of such documentation (other than such documentation set forth in clauses (ii)(A), (ii)(B) and (ii)(D) below) shall not be required if in the Lender's reasonable judgment such completion, execution or submission would subject such Lender to any material unreimbursed cost or expense or would materially prejudice the legal or commercial position of such Lender.

(ii) Without limiting the generality of the foregoing, in the event that any Borrower is a U.S. Person,

(A) any Lender that is a U.S. Person shall deliver to such Borrower and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding tax,

(B) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to such Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent), whichever of the following is applicable:

(i) in the case of a Foreign Lender claiming the benefits of an income tax treaty to which the United States is a party (x) with respect to payments of interest under any Credit Document, executed originals of IRS Form W-8BEN-E (or W-8BEN as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such tax treaty and (y) with respect to any other applicable payments under any Credit Document, IRS Form W-8BEN-E (or W-8BEN as applicable) establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such tax treaty;

(ii) executed originals of IRS Form W-8ECI;

(iii) in the case of a Foreign Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Internal Revenue Code, (x) a certificate substantially in the form of Exhibit 3.3-1 to the effect that such Foreign Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Internal Revenue Code, a "10 percent shareholder" of such Borrower within the meaning of Section 881(c)(3)(B) of the Internal Revenue Code, or a "controlled foreign corporation" described in Section 881(c)(3)(C) of the Internal Revenue Code (a "U.S. Tax Compliance Certificate") and (y) executed originals of IRS Form W-8BEN-E (or W-8BEN as applicable); or

(iv) to the extent a Foreign Lender is not the beneficial owner, executed originals of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN-E (or W-8BEN as applicable), a U.S. Tax Compliance Certificate substantially in the form of Exhibit 3.3-2 or Exhibit 3.3-3, IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable; provided that if the Foreign Lender is a partnership and one or more direct or indirect partners of such Foreign Lender are claiming the portfolio interest exemption, such Foreign Lender may provide a U.S. Tax Compliance Certificate substantially in the form of Exhibit 3.3-4 on behalf of each such direct and indirect partner;

(C) any Foreign Lender shall, to the extent it is legally entitled to do so, deliver to such Borrower and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Foreign Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of such Borrower or the Administrative Agent), executed originals of any other form prescribed by Applicable Law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by Applicable Law to permit such Borrower or the Administrative Agent to determine the withholding or deduction required to be made; and

(D) if a payment made to a Lender under any Credit Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Internal Revenue Code, as applicable), such Lender shall deliver to such Borrower and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by such Borrower or the Administrative Agent such documentation prescribed by Applicable Law (including as prescribed by Section 1471(b)(3)(C)(i) of the Internal Revenue Code) and such additional documentation reasonably requested by such Borrower or the Administrative Agent as may be necessary for such Borrower and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrowers and the Administrative Agent in writing of its legal inability to do so.

(g) Treatment of Certain Refunds. Unless required by Applicable Law, at no time shall the Administrative Agent have any obligation to file for or otherwise pursue on behalf of a Lender, or have any obligation to pay to any Lender, any refund of Taxes withheld or deducted from funds paid for the account of such Lender. If any indemnified party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section (including by the payment of additional amounts pursuant to this Section), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of the indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than the indemnified party would have been in if the Tax subject to indemnification and giving rise to such refund had not been deducted, withheld or otherwise imposed and the indemnification payments or additional amounts with respect to such Tax had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Survival. Each party's obligations under this Section 3.3 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Commitments and the repayment, satisfaction or discharge of all obligations under any Credit Document.

Section 3.4 Mitigation Obligations; Designation of a Different Lending Office. If any Lender requests compensation under Section 3.2, or requires the Borrowers to pay any Indemnified Taxes or additional amounts to any Lender or any Governmental Authority for the account of any Lender pursuant to Section 3.3, then such Lender shall (at the request of the Borrowers) use reasonable efforts to designate a different lending office for funding or booking its Loans hereunder or to assign its rights and obligations hereunder to another of its offices, branches or affiliates, if, in the judgment of such Lender, such designation or assignment (i) would eliminate or reduce amounts payable pursuant to Section 3.2 or Section 3.3, as the case may be, in the future, and (ii) would not subject such Lender to any unreimbursed cost or expense and would not otherwise be disadvantageous to such Lender. Each Borrower hereby agrees to pay all reasonable costs and expenses incurred by any Lender in connection with any such designation or assignment.

Section 4. GUARANTY

Section 4.1 The Guaranty

Each of the Guarantors hereby jointly and severally guarantees to the Administrative Agent, the Lenders, the Qualifying Swap Banks, the Qualifying Treasury Management Banks and the other holders of the Obligations as hereinafter provided, as primary obligor and not as surety, the prompt payment of the Obligations (the "Guaranteed Obligations") in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise) strictly in accordance with the terms thereof. The Guarantors hereby further agree that if any of the Obligations are not paid in full when due (whether at stated maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise), the Guarantors will, jointly and severally, promptly pay the same, without any demand or notice whatsoever; and that in the case of any extension of time of payment or renewal of any of the Obligations, the same will be promptly paid in full when due (whether at extended maturity, as a mandatory prepayment, by acceleration, as a mandatory Cash Collateralization or otherwise) in accordance with the terms of such extension or renewal.

Notwithstanding any provision to the contrary contained herein, in any other of the Credit Documents, Swap Agreements, Treasury Management Agreements or other documents relating to the Obligations, (a) the obligations of each Guarantor under this Agreement and the other Credit Documents shall be limited to an aggregate amount equal to the largest amount that would not render such obligations subject to avoidance under the Debtor Relief Laws or any comparable provisions of any applicable state law and (b) the Guaranteed Obligations of a Guarantor shall exclude any Excluded Swap Obligations with respect to such Guarantor.

Section 4.2 Obligations Unconditional.

The obligations of the Guarantors under Section 4.1 are joint and several, absolute and unconditional, irrespective of the value, genuineness, validity, regularity or enforceability of any of the Credit Documents, Swap Agreements or Treasury Management Agreements, or any other agreement or instrument referred to therein, or any substitution, release, impairment or exchange of any other guarantee of or security for any of the Obligations, and, to the fullest extent permitted by Applicable Law, irrespective of any law or regulation or other circumstance whatsoever which might otherwise constitute a legal or equitable discharge or defense of a surety or guarantor, it being the intent of this Section 4.2 that the obligations of the Guarantors hereunder shall be absolute and unconditional under any and all circumstances. Each Guarantor agrees that such Guarantor shall have no right of subrogation, indemnity, reimbursement or contribution against any Borrower or any other Guarantor for amounts paid under this Section 4 until such time as the Obligations have been paid in full and the Commitments have expired or terminated. Without limiting the generality of the foregoing, it is agreed that, to the fullest extent permitted by law, the occurrence of any one or more of the following shall not alter or impair the liability of any Guarantor hereunder, which shall remain absolute and unconditional as described above:

- (a) at any time or from time to time, without notice to any Guarantor, the time for any performance of or compliance with any of the Obligations shall be extended, or such performance or compliance shall be waived;
- (b) any of the acts mentioned in any of the provisions of any of the Credit Documents, any Secured Swap Agreement, or any Secured Treasury Management Agreement, or any other agreement or instrument referred to in the Credit Documents, such Secured Swap Agreements or such Secured Treasury Management Agreements shall be done or omitted;
- (c) the maturity of any of the Obligations shall be accelerated, or any of the Obligations shall be modified, supplemented or amended in any respect, or any right under any of the Credit Documents, any Secured Swap Agreement or any Secured Treasury Management Agreement, or any other agreement or instrument referred to in the Credit Documents, such Secured Swap Agreements or such Secured Treasury Management Agreements shall be waived or any other guarantee of any of the Obligations or any security therefor shall be released, impaired or exchanged in whole or in part or otherwise dealt with;
- (d) any Lien granted to, or in favor of, the Administrative Agent or any Lender or Lenders as security for any of the Obligations shall fail to attach or be perfected; or
- (e) any of the Obligations shall be determined to be void or voidable (including, without limitation, for the benefit of any creditor of any Guarantor) or shall be subordinated to the claims of any Person (including, without limitation, any creditor of any Guarantor).

With respect to its obligations hereunder, each Guarantor hereby expressly waives diligence, presentment, demand of payment, protest and all notices whatsoever, and any requirement that the Administrative Agent or any Lender exhaust any right, power or remedy or proceed against any Person under any of the Credit Documents, any Secured Swap Agreement or any Secured Treasury Management Agreement, or any other agreement or instrument referred to in the Credit Documents, such Secured Swap Agreements or such Secured Treasury Management Agreements, or against any other Person under any other guarantee of, or security for, any of the Obligations.

Section 4.3 Reinstatement.

The obligations of the Guarantors under this Section 4 shall be automatically reinstated if and to the extent that for any reason any payment by or on behalf of any Person in respect of the Obligations is rescinded or must be otherwise restored by any holder of any of the Obligations, whether as a result of any proceedings in bankruptcy or reorganization or otherwise, and each Guarantor agrees that it will indemnify the Administrative Agent and each Lender on demand for all reasonable costs and expenses (including, without limitation, the fees, charges and disbursements of counsel) incurred by the Administrative Agent or such Lender in connection with such rescission or restoration, including any such costs and expenses incurred in defending against any claim alleging that such payment constituted a preference, fraudulent transfer or similar payment under any bankruptcy, insolvency or similar law.

Section 4.4 Certain Additional Waivers.

Each Guarantor agrees that such Guarantor shall have no right of recourse to security for the Obligations, except through the exercise of rights of subrogation pursuant to Section 4.2 and through the exercise of rights of contribution pursuant to Section 4.6.

Section 4.5 Remedies.

The Guarantors agree that, to the fullest extent permitted by law, as between the Guarantors, on the one hand, and the Administrative Agent and the Lenders, on the other hand, the Obligations may be declared to be forthwith due and payable as provided in Section 9.2 (and shall be deemed to have become automatically due and payable in the circumstances provided in said Section 9.2) for purposes of Section 4.1 notwithstanding any stay, injunction or other prohibition preventing such declaration (or preventing the Obligations from becoming automatically due and payable) as against any other Person and that, in the event of such declaration (or the Obligations being deemed to have become automatically due and payable), the Obligations (whether or not due and payable by any other Person) shall forthwith become due and payable by the Guarantors for purposes of Section 4.1. The Guarantors acknowledge and agree that their obligations hereunder are secured in accordance with the terms of the Collateral Documents and that the Lenders may exercise their remedies thereunder in accordance with the terms thereof.

Section 4.6 Rights of Contribution.

The Guarantors agree among themselves that, in connection with payments made hereunder, each Guarantor shall have contribution rights against the other Guarantors as permitted under Applicable Law. Such contribution rights shall be subordinate and subject in right of payment to the obligations of such Guarantors under the Credit Documents and no Guarantor shall exercise such rights of contribution until all Obligations have been paid in full and the Commitments have terminated.

Section 4.7 Guarantee of Payment; Continuing Guarantee.

The guarantee in this Section 4 is a guaranty of payment and not of collection, is a continuing guarantee, and shall apply to all Obligations whenever arising.

Section 4.8 Keepwell.

Each Qualified ECP Guarantor hereby jointly and severally absolutely, unconditionally and irrevocably undertakes to provide such funds or other support as may be needed from time to time by each Specified Credit Party to honor all of such Specified Credit Party's obligations under the Guaranty and the Collateral Documents in respect of Swap Obligations (provided, however, that each Qualified ECP Guarantor shall only be liable under this Section 4.8 for the maximum amount of such liability that can be hereby incurred without rendering such Qualified ECP Guarantor's obligations and undertakings under this Section 4, voidable under applicable Debtor Relief Laws, and not for any greater amount). The obligations and undertakings of each Qualified ECP Guarantor under this Section 4.8 shall remain in full force and effect until the Guaranteed Obligations have been indefeasibly paid in full and the commitments relating thereto have expired or terminated, or, with respect to any Guarantor, if earlier, such Guarantor is released from its Guaranteed Obligations in accordance with Section 10.10(a). Each Qualified ECP Guarantor intends that this Section 4.8 constitute, and this Section 4.8 shall be deemed to constitute, a "keepwell, support, or other agreement" for the benefit of each Specified Credit Party for all purposes of section 1a(18)(A)(v)(II) of the Commodity Exchange Act.

Section 5. CONDITIONS PRECEDENT

Section 5.1 Conditions Precedent to Initial Credit Extensions. The obligation of each Lender to make a Credit Extension on the Effective Date is subject to the satisfaction of the following conditions on or before the Effective Date:

(a) Executed Credit Documents. Receipt by the Administrative Agent of executed counterparts of this Agreement and the other Credit Documents, in each case, in form and substance reasonably satisfactory to the Administrative Agent and the Lenders and duly executed by the appropriate parties thereto.

(b) Organizational Documents. Receipt by the Administrative Agent of the following:

(i) Charter Documents. Copies of articles of incorporation, certificate of organization or formation, or other like document for each of the Credit Parties certified as of a recent date by the appropriate Governmental Authority.

(ii) Organizational Documents Certificate. (A) Copies of bylaws, operating agreement, partnership agreement or like document, (B) copies of resolutions approving the transactions contemplated in connection with the financing and authorizing execution and delivery of the Credit Documents, and (C) incumbency certificates, for each of the Credit Parties, in each case certified by an Authorized Officer in form and substance reasonably satisfactory to the Administrative Agent.

(iii) Good Standing Certificate. Copies of certificates of good standing, existence or the like of a recent date for each of the Credit Parties from the appropriate Governmental Authority of its jurisdiction of formation or organization.

(iv) Closing Certificate. A certificate from an Authorized Officer of the Parent, in form and substance reasonably satisfactory to the Administrative Agent and the Required Lenders, confirming, among other things, (A) all consents, approvals, authorizations, registrations, or filings required to be made or obtained by the Borrowers and the other Credit Parties, if any, in connection with this Agreement and the other Credit Documents and the transactions contemplated herein and therein have been obtained and are in full force and effect, (B) no proceeding, investigation or inquiry by any Governmental Authority regarding this Agreement and the other Credit Documents and the transactions contemplated herein and therein is ongoing, (C) no material contingencies, including, but not limited to, pension or other employee benefit liabilities, exist, (D) since the date of the most-recent annual audited financial statements for the Parent, there has been no event or circumstance which could be reasonably expected to have a Material Adverse Effect, (E) the most-recent annual audited financial statements were prepared in accordance with GAAP consistently applied, except as noted therein, and fairly present in all material respects the consolidated financial condition and results from operations of the Parent and its Subsidiaries, (F) each Borrower, individually, and the Borrowers and their Subsidiaries, taken as a whole, are Solvent after giving effect to the transactions contemplated hereby and the incurrence of Indebtedness related thereto and (G) the conditions specified in Sections 5.2(e) and (d) have been satisfied as of the Effective Date.

(c) [reserved].

(d) Personal Property Collateral. Receipt by the Collateral Agent of the following:

(i) Lien Searches. Searches of (A) UCC filings in the jurisdiction of incorporation or formation, as applicable, of each Credit Party and each jurisdiction where any Collateral is located or where a filing would need to be made in order to Collateral Agent's security interest in the Collateral, copies of the financing statements on file in such jurisdictions and evidence that no Liens exist other than Permitted Liens, (B) tax and judgment liens of each Credit Party and (C) ownership of intellectual property of each Credit Party in the appropriate governmental offices.

(ii) UCC Financing Statements. Such UCC financing statements necessary or appropriate to perfect the security interests in the personal property collateral, as determined by the Collateral Agent.

(iii) Intellectual Property Filings. Such patent, trademark and copyright notices, filings and recordings necessary or appropriate to perfect the security interests in intellectual property and intellectual property rights, as determined by the Collateral Agent.

(iv) Pledged Equity Interests. Original certificates evidencing any certificated Equity Interests pledged as collateral, together with undated stock transfer powers executed in blank.

(v) Landlord Waivers; Bailee Waivers and Inventory Notifications. In the case of any personal property Collateral located at premises not owned by a Credit Party, such estoppel letters, consents and notifications from any Persons that have rights in such Collateral (other than the Credit Parties) as are reasonably requested by the Collateral Agent (such letters, consents and waivers shall be in form and substance satisfactory to the Collateral Agent).

(vi) Evidence of Insurance. Certificates of insurance for casualty, liability and any other insurance required by the Credit Documents, identifying the Collateral Agent as lender's loss payee with respect to the casualty insurance and additional insured with respect to the liability insurance, as appropriate.

(e) Funding Notice; Funds Disbursement Instructions. The Administrative Agent shall have received (a) a duly executed Funding Notice with respect to any Credit Extension to occur on the Effective Date and (b) duly executed disbursement instructions (with wiring instructions and account information) for all disbursements to be made on the Effective Date.

(f) Amendment and Restatement of Existing Credit Agreement. Substantially concurrently with the initial Credit Extensions made on the Effective Date, the Borrowers shall have repaid all obligations owed under the Existing Credit Agreement to any lender that is not a Lender hereunder.

(h) [reserved].

(g) Fees and Expenses. The Administrative Agent shall have confirmation that all reasonable out-of-pocket fees and expenses required to be paid on or before the Effective Date have been paid, including the reasonable out-of-pocket fees and expenses of counsel for the Administrative Agent.

(h) Patriot Act; Anti-Money Laundering Laws; Beneficial Ownership. The provision by the Credit Parties of all documentation and other information that the Administrative Agent or any Lender requests in order to comply with its ongoing obligations under applicable "know your customer" and anti-money laundering rules and regulations, including the Patriot Act, including without limitation the certification regarding beneficial ownership of legal entity customers (the "Beneficial Ownership Certification").

For purposes of determining compliance with the conditions specified in this Section 5.1, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the proposed Effective Date specifying its objection thereto.

The funding of the initial Loans hereunder shall evidence the satisfaction of the foregoing conditions.

Section 5.2 Conditions to Each Credit Extension. The obligation of each Lender to fund its Revolving Commitment Percentage of any Credit Extension on any Credit Date, including the Effective Date, is subject to the satisfaction, or waiver in accordance with Section 11.4, of the following conditions precedent:

(a) the Administrative Agent shall have received a fully executed and delivered Funding Notice, together with the documentation and certifications required therein with respect to each Credit Extension;

(b) after making the Credit Extension requested on such Credit Date, the Total Revolving Outstandings shall not exceed the Aggregate Revolving Commitments then in effect;

(c) as of such Credit Date, the representations and warranties contained herein and in the other Credit Documents shall be true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) on and as of that Credit Date to the same extent as though made on and as of that date, except to the extent such representations and warranties specifically relate to an earlier date, in which case such representations and warranties shall have been true and correct in all material respects (other than those representations and warranties that are expressly qualified by a Material Adverse Effect or other materiality, in which case such representations and warranties shall be true and correct in all respects) on and as of such earlier date;

(d) as of such Credit Date, no event shall have occurred and be continuing or would result from the consummation of the applicable Credit Extension that would constitute an Event of Default or a Default.

Any Agent or the Required Lenders shall be entitled, but not obligated to, request and receive, prior to the making of any Credit Extension, additional information reasonably satisfactory to the requesting party confirming the satisfaction of any of the foregoing if, in the reasonable good faith judgment of such Agent or Required Lenders, such request is warranted under the circumstances.

Section 6. REPRESENTATIONS AND WARRANTIES

In order to induce Agents and Lenders to enter into this Agreement and to make each Credit Extension to be made thereby, each Borrower and each other Credit Party represents and warrants to each Agent and Lender as follows:

Section 6.1 Organization; Requisite Power and Authority; Qualification. Each Borrower and its Subsidiaries (a) is duly organized, validly existing and in good standing under the laws of its jurisdiction of organization as identified in Schedule 6.1, (b) has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Credit Documents to which it is a party and to carry out the transactions contemplated thereby, and (c) is qualified to do business and in good standing in every jurisdiction where necessary to carry out its business and operations, except in jurisdictions where the failure to be so qualified or in good standing has not had, and could not be reasonably expected to have, a Material Adverse Effect.

Section 6.2 Equity Interests and Ownership. Schedule 6.2 correctly sets forth the ownership interest of each Borrower in its Subsidiaries as of the Effective Date. The Equity Interests of each Credit Party and its Subsidiaries have been duly authorized and validly issued and is fully paid and non-assessable. Except as set forth on Schedule 6.2, as of the Effective Date, there is no existing option, warrant, call, right, commitment, buy-sell, voting trust or other shareholder agreement or other agreement to which any Subsidiary is a party requiring, and there is no membership interest or other Equity Interests of any Subsidiary outstanding which upon conversion or exchange would require, the issuance by any Subsidiary of any additional membership interests or other Equity Interests of any Subsidiary or other Securities convertible into, exchangeable for or evidencing the right to subscribe for or purchase, a membership interest or other Equity Interests of any Subsidiary.

Section 6.3 Due Authorization. The execution, delivery and performance of the Credit Documents have been duly authorized by all necessary action on the part of each Credit Party that is a party thereto.

Section 6.4 No Conflict. The execution, delivery and performance by Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not (a) violate in any material respect any provision of any Applicable Laws relating to any Credit Party, any of the Organizational Documents of any Credit Party, or any order, judgment or decree of any court or other agency of government binding on any Credit Party; or (b) except as could not reasonably be expected to have a Material Adverse Effect, conflict with, result in a breach of or constitute (with due notice or lapse of time or both) a default under any other Contractual Obligations of any Credit Party; (c) result in or require the creation or imposition of any Lien upon any of the properties or assets of any Credit Party (other than any Liens created under any of the Credit Documents in favor of the Collateral Agent for the benefit of the holders of the Obligations) whether now owned or hereafter acquired; or (d) require any approval of stockholders, members or partners or any approval or consent of any Person under any Contractual Obligation of any Credit Party.

Section 6.5 Governmental Consents. The execution, delivery and performance by the Credit Parties of the Credit Documents to which they are parties and the consummation of the transactions contemplated by the Credit Documents do not and will not require, as a condition to the effectiveness thereof, any registration with, consent or approval of, or notice to, or other action to, with or by, any Governmental Authority except for filings and recordings with respect to the Collateral to be made, or otherwise delivered to the Collateral Agent for filing and/or recordation, as of the Effective Date and other filings, recordings or consents which have been obtained or made, as applicable.

Section 6.6 Binding Obligation. Each Credit Document has been duly executed and delivered by each Credit Party that is a party thereto and is the legally valid and binding obligation of such Credit Party, enforceable against such Credit Party in accordance with its respective terms, except as may be limited by Debtor Relief Laws or by equitable principles relating to enforceability.

Section 6.7 Financial Statements.

(a) The audited consolidated balance sheet of the Parent and its Subsidiaries for the Fiscal Year ended December 31, 2023, and the related consolidated statements of income or operations, shareholders' equity and cash flows for such Fiscal Year, including the notes thereto (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; (ii) fairly present the financial condition of the Parent and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein; and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Parent and its Subsidiaries as of the date thereof, including liabilities for taxes, material commitments and Indebtedness.

(b) The unaudited consolidated balance sheet of the Parent and its Subsidiaries for the Fiscal Quarter ended September 30, 2024, and the related consolidated statements of income or operations and cash flows for such Fiscal Quarter (i) were prepared in accordance with GAAP consistently applied throughout the period covered thereby, except as otherwise expressly noted therein, (ii) fairly present the financial condition of the Parent and its Subsidiaries as of the date thereof and their results of operations for the period covered thereby, subject, in the case of clauses (i) and (ii), to the absence of footnotes and to normal year-end audit adjustments, and (iii) show all material indebtedness and other liabilities, direct or contingent, of the Parent and its Subsidiaries as of the date of such financial statements, including liabilities for taxes, material commitments and Indebtedness.

(c) The financial statements delivered pursuant to Section 7.1(a) and (b) have been prepared in accordance with GAAP (except as may otherwise be permitted under Section 7.1(a) and (b)) and present fairly (on the basis disclosed in the footnotes to such financial statements, if applicable) the consolidated financial condition, results of operations and cash flows of the Parent and its Subsidiaries as of the dates thereof and for the periods covered thereby.

(d) The consolidated forecasted balance sheet and statements of income and cash flows of the Parent and its Subsidiaries delivered pursuant to Section 7.1(d) were prepared in good faith on the basis of the assumptions stated therein, which assumptions were fair in light of the conditions existing at the time of delivery of such forecasts.

Section 6.8 No Material Adverse Effect; No Default.

(a) No Material Adverse Effect. Since December 31, 2023, no event, circumstance or change has occurred that has caused or evidences, either in any case or in the aggregate, a Material Adverse Effect.

(b) No Default. No Default has occurred and is continuing.

Section 6.9 Tax Matters. Each Credit Party and its Subsidiaries have filed all federal, state and other material tax returns and reports required to be filed, and have paid all federal, state and other material taxes, assessments, fees and other governmental charges levied or imposed upon them or their respective properties, assets, income, businesses and franchises otherwise due and payable, except those being actively contested in good faith and by appropriate proceedings and for which adequate reserves have been provided in accordance with GAAP. There is no proposed tax assessment against any Credit Party or any of its Subsidiaries that would, if made, have a Material Adverse Effect.

Section 6.10 Properties.

(a) Title. Each of the Credit Parties and its Subsidiaries has (i) good, sufficient and legal title to (in the case of fee interests in real property), (ii) valid leasehold interests in (in the case of leasehold interests in real or personal property), and (iii) good title to (in the case of all other personal property), all of their respective properties and assets reflected in their financial statements and other information referred to in Section 6.7 and in the most recent financial statements delivered pursuant to Section 7.1, in each case except for assets disposed of since the date of such financial statements as permitted under Section 8.9. All such properties and assets are free and clear of Liens other than Permitted Liens.

(b) Real Estate. As of the Effective Date, Schedule 6.10(b) contains a true, accurate and complete list of all Real Estate Assets of the Credit Parties (including (i) the name of the Credit Party owning or leasing such Real Estate Asset, (ii) the property address of such Real Estate Asset and (iii) an indication of whether each such location is leased or owned, and if leased, the name and address of the landlord).

(c) Intellectual Property. Each Credit Party and its Subsidiaries owns or is validly licensed to use all Intellectual Property that is necessary for the present conduct of its business, free and clear of Liens (other than Permitted Liens), without conflict with the rights of any other Person unless the failure to own or benefit from such valid license could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the knowledge of each Credit Party, no Credit Party nor any of its Subsidiaries is infringing, misappropriating, diluting, or otherwise violating the Intellectual Property rights of any other Person unless such infringement, misappropriation, dilution or violation could not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

Section 6.11 Environmental Matters. No Credit Party nor any of its Subsidiaries nor any of their respective current Facilities (solely during and with respect to such Person's ownership thereof) or operations, and to their knowledge, no former Facilities (solely during and with respect to any Credit Party's or its Subsidiary's ownership thereof), are subject to any outstanding order, consent decree or settlement agreement with any Person relating to any Environmental Law, any Environmental Claim, or any Hazardous Materials Activity that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; (b) no Credit Party nor any of its Subsidiaries has received any letter or request for information under Section 104 of the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. § 9604) or any comparable state law; (c) there are and, to each Credit Party's and its Subsidiaries' knowledge, have been, no Hazardous Materials Activities which could reasonably be expected to form the basis of an Environmental Claim against such Credit Party or any of its Subsidiaries that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect; (d) no Credit Party nor any of its Subsidiaries has filed any notice under any Environmental Law indicating past or present treatment of Hazardous Materials at any Facility (solely during and with respect to such Credit Party's or its Subsidiary's ownership thereof), and no Borrower's nor any of its Subsidiaries' operations involves the generation, transportation, treatment, storage or disposal of hazardous waste, as defined under 40 C.F.R. Parts 260-270 or any equivalent state rule defining hazardous waste. Compliance with all current requirements pursuant to or under Environmental Laws could not be reasonably expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 6.12 No Defaults. No Credit Party nor any of its Subsidiaries is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in any of its Contractual Obligations, except in each case where the consequences, direct or indirect, of such default or defaults, if any, could not reasonably be expected to have a Material Adverse Effect.

Section 6.13 No Litigation or other Adverse Proceedings. There are no Adverse Proceedings that (a) purport to affect or pertain to this Agreement or any other Credit Document, or any of the transactions contemplated hereby or (b) could reasonably be expected to have a Material Adverse Effect. No Borrower nor any of its Subsidiaries is subject to or in default with respect to any final judgments, writs, injunctions, decrees, rules or regulations of any Governmental Authority that, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect.

Section 6.14 Information Regarding each Borrower and its Subsidiaries. Set forth on Schedule 6.14, is the jurisdiction of organization, the exact legal name (and any former legal names during the prior five (5) years or since the date of its formation) and the true and correct U.S. taxpayer identification number (or foreign equivalent, if any) of each Borrower and each of its Subsidiaries as of the Effective Date.

Section 6.15 Governmental Regulation.

(a) No Credit Party nor any Subsidiary of a Credit Party is, or is required to be registered as, an "investment company" under the Investment Company Act of 1940.

(b) No Credit Party nor any of its Subsidiaries is an "enemy" or an "ally of the enemy" within the meaning of Section 2 of the Trading with the Enemy Act of the United States of America (50 U.S.C. App. §§ 1 *et seq.*), as amended. To its knowledge, no Credit Party or any of its Subsidiaries is in violation of (a) the Trading with the Enemy Act, as amended, (b) any of the foreign assets control regulations of the United States Treasury Department (31 CFR, Subtitle B, Chapter V, as amended) or any enabling legislation or executive order relating thereto or (c) the Patriot Act. No Credit Party or any of its Subsidiaries (i) is a blocked person described in Section 1 of the Anti-Terrorism Order or (ii) to the best of its knowledge, engages in any dealings or transactions, or is otherwise associated, with any such blocked person.

(c) None of the Credit Parties or their Subsidiaries or their respective Affiliates is in violation of and shall not violate any of the country or list based economic and trade sanctions administered and enforced by OFAC that are described or referenced at <http://www.ustreas.gov/offices/enforcement/ofac/> or as otherwise published from time to time.

(d) No Credit Party, nor any Subsidiary, nor, to the knowledge of the Credit Parties and their Subsidiaries, any director, officer, employee, agent, Affiliate or representative thereof, is an individual or entity that is, or is owned or controlled by any individual or entity that (i) is a Sanctioned Entity, (ii) is a Sanctioned Person, (iii) is located, organized or resident in a Designated Jurisdiction, (iv) has any of its assets located in a Sanctioned Entity (unless approved by the Lenders), or (iii) derives any of its operating income from investments in, or transactions with Sanctioned Persons (unless approved by the Lenders). The proceeds of any Credit Extension or other transaction contemplated by this Agreement or any other Credit Document have not been used (x) in violation of any Sanctions, (y) to fund any operations in, finance any investments or activities in or make any payments to, a Sanctioned Person or a Sanctioned Country or (z) in any other manner that would result in a violation of Sanctions by any Person (including the Administrative Agent, the Collateral Agent, the Lenders or any other Person participating in the Credit Extensions, whether as an underwriter, advisor, investor or otherwise).

(e) Each of the Credit Parties and their Subsidiaries and, to the knowledge of each Credit Party and its Subsidiaries, each of their respective directors, officers, employees and Affiliates, is in compliance with Anti-Corruption Laws. Each Credit Party and its Subsidiaries has implemented and maintains in effect policies and procedures designed to ensure compliance by such Credit Party, its Subsidiaries and their respective directors, officers, employees and agents with Anti-Corruption Laws. None of the Credit Parties or their respective Subsidiaries has made a payment, offering, or promise to pay, or authorized the payment of, money or anything of value (a) in order to assist in obtaining or retaining business for or with, or directing business to, any foreign official, foreign political party, party official or candidate for foreign political office, (b) to a foreign official, foreign political party or party official or any candidate for foreign political office, and (c) with the intent to induce the recipient to misuse his or her official position to direct business wrongfully to such Credit Party or any of its Subsidiaries or to any other Person, in violation of any Anti-Corruption Law. No part of the proceeds of any Credit Extension or other transaction contemplated by this Agreement or any other Credit Document will violate Anti-Corruption Laws.

(f) To the extent applicable, each Credit Party and its Subsidiaries are in compliance with Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act of 2001) (as amended from time to time, the "Patriot Act").

(g) No Credit Party or any of its Subsidiaries is engaged principally, or as one of its important activities, in the business of extending credit for the purpose of purchasing or carrying any Margin Stock. No part of the proceeds of any Credit Extension made to such Credit Party will be used (i) to purchase or carry any such Margin Stock or to extend credit to others for the purpose of purchasing or carrying any such Margin Stock or for any purpose that violates, or is inconsistent with, the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System as in effect from time to time or (ii) to finance or refinance any (A) commercial paper issued by such Credit Party or (B) any other Indebtedness, except for Indebtedness that such Credit Party incurred for general corporate or working capital purposes or for capital expenditures.

(h) No Credit Party is an Affected Financial Institution.

Section 6.16 Employee Matters. No Credit Party or any of its Subsidiaries is engaged in any unfair labor practice that could reasonably be expected to have a Material Adverse Effect. There is (a) no unfair labor practice complaint pending against any Credit Party or any of its Subsidiaries, or to the best knowledge of each Credit Party, threatened against any of them before the National Labor Relations Board and no grievance or arbitration proceeding arising out of or under any collective bargaining agreement that is so pending against any Credit Party or any of its Subsidiaries or to the best knowledge of each Credit Party, threatened against any of them, (b) no strike or work stoppage in existence or to the knowledge of each Credit Party, threatened that involves any Credit Party or any of its Subsidiaries, and (c) to the best knowledge of each Credit Party, no union representation question existing with respect to the employees of any Credit Party or any of its Subsidiaries and, to the best knowledge of each Credit Party, no union organization activity that is taking place, except (with respect to any matter specified in clause (a), (b) or (c) above, either individually or in the aggregate) such as could not reasonably be expected to have a Material Adverse Effect.

Section 6.17 Pension Plans. (a) Except as could not reasonably be expected to have a Material Adverse Effect, each of the Credit Parties and their Subsidiaries are in compliance with all applicable provisions and requirements of ERISA and the Internal Revenue Code and the regulations and published interpretations thereunder with respect to its Pension Plan, and have performed all their obligations under each Pension Plan in all material respects, (b) each Pension Plan which is intended to qualify under Section 401(a) of the Internal Revenue Code has received a favorable determination letter or is the subject of a favorable opinion letter from the Internal Revenue Service indicating that such Pension Plan is so qualified and, to the best knowledge of the Credit Parties, nothing has occurred subsequent to the issuance of such determination letter which would cause such Pension Plan to lose its qualified status except where such event could not reasonably be expected to result in a Material Adverse Effect, (c) except as could not reasonably be expected to have a Material Adverse Effect, no liability to the PBGC (other than required premium payments), the Internal Revenue Service, any Pension Plan (other than for routine claims and required funding obligations in the ordinary course) or any trust established under Title IV of ERISA has been incurred by any Credit Party, any of its Subsidiaries or any of their ERISA Affiliates, (d) except as would not reasonably be expected to result in liability to any Borrower or any of its Subsidiaries in excess of \$500,000, no ERISA Event has occurred, and (e) except to the extent required under Section 4980B of the Internal Revenue Code and Section 601 et seq. of ERISA or similar state laws and except as could not reasonably be expected to have a Material Adverse Effect, no Pension Plan provides health or welfare benefits (through the purchase of insurance or otherwise) for any retired or former employee of any Borrower or any of its Subsidiaries. Each Credit Party represents and warrants as of the Effective Date that it is not and will not be using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Credit Party's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement.

Section 6.18 Solvency. Each Borrower, individually, and the Borrowers and their Subsidiaries taken as a whole on a consolidated basis are and, upon the incurrence of any Credit Extension on any date on which this representation and warranty is made, will be, Solvent.

Section 6.19 Compliance with Laws. Each Credit Party and its Subsidiaries is in compliance with (a) the Patriot Act and OFAC rules and regulations as provided in Section 6.15 and (b) except such non-compliance with such other Applicable Laws that, individually or in the aggregate, could not reasonably be expected to result in a Material Adverse Effect, all other Applicable Laws. Each Credit Party and its Subsidiaries possesses all certificates, authorities or permits issued by appropriate Governmental Authorities necessary to conduct the business now operated by them and the failure of which to have could reasonably be expected to have a Material Adverse Effect and have not received any notice of proceedings relating to the revocation or modification of any such certificate, authority or permit the failure of which to have or retain could reasonably be expected to have a Material Adverse Effect.

Section 6.20 Disclosure.

(a) No representation or warranty of any Credit Party contained in any Credit Document or in any other documents, certificates or written statements furnished to the Lenders by or on behalf of any Borrower or any of its Subsidiaries for use in connection with the transactions contemplated hereby (other than projections and pro forma financial information contained in such materials) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein not misleading in any material manner in light of the circumstances in which the same were made. Any projections and pro forma financial information contained in such materials are based upon good faith estimates and assumptions believed by the Credit Parties to be reasonable at the time made, it being recognized by the Administrative Agent and the Lenders that such projections as to future events are not to be viewed as facts and that actual results during the period or periods covered by any such projections may differ from the projected results and that such differences may be material. There are no facts known to any Credit Party (other than matters of a general economic nature) that, individually or in the aggregate, could reasonably be expected to result in a Material Adverse Effect and that have not been disclosed herein or in such other documents, certificates and statements furnished to the Lenders.

(b) As of the Effective Date, the information included in the Beneficial Ownership Certification is true and correct in all respects.

Section 6.21 Insurance. The properties of the Credit Parties and their Subsidiaries are insured with financially sound and reputable insurance companies not Affiliates of such Persons, in such amounts, with such deductibles and covering such risks as are customarily carried by companies engaged in similar businesses and owning similar properties in localities where the applicable Credit Party or the applicable Subsidiary operates. The insurance coverage of the Borrowers and their Subsidiaries as in effect on the Effective Date is outlined as to carrier, policy number, expiration date, type, amount and deductibles on Schedule 6.21.

Section 6.22 Pledge and Security Agreement.

(a) The Pledge and Security Agreement is effective to create in favor of the Collateral Agent, for the ratable benefit of the holders of the Obligations, a legal, valid and enforceable security interest in the Collateral identified therein, except to the extent the enforceability thereof may be limited by applicable Debtor Relief Laws affecting creditors' rights generally and by equitable principles of law (regardless of whether enforcement is sought in equity or at law), and the Pledge and Security Agreement shall create a fully perfected Lien on, and security interest in, all right, title and interest of the obligors thereunder in such Collateral, in each case prior and superior in right to any other Lien (i) with respect to any such Collateral that is a "security" (as such term is defined in the UCC) and is evidenced by a certificate, when such Collateral is delivered to the Collateral Agent with duly executed stock powers with respect thereto, (ii) with respect to any such Collateral that is a "security" (as such term is defined in the UCC) but is not evidenced by a certificate, when UCC financing statements in appropriate form are filed in the appropriate filing offices in the jurisdiction of organization of the pledgor or when "control" (as such term is defined in the UCC) is established by the Collateral Agent over such interests in accordance with the provision of Section 8-106 of the UCC, or any successor provision, and (iii) with respect to any such Collateral that is not a "security" (as such term is defined in the UCC), when UCC financing statements in appropriate form are filed in the appropriate filing offices in the jurisdiction of organization of the pledgor (to the extent such security interest can be perfected by filing under the UCC).

(b) As of the Effective Date, no Credit Party is a Transmitting Utility.

Section 7. AFFIRMATIVE COVENANTS

Each Credit Party covenants and agrees that until the Obligations shall have been paid in full or otherwise satisfied, and the Commitments hereunder shall have expired or been terminated, such Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Section 7.

Section 7.1 Financial Statements and Other Reports. The Parent will deliver, or will cause to be delivered, to the Administrative Agent:

(a) Quarterly Financial Statements for the Parent and its Subsidiaries. Upon the earlier of the date that is forty-five (45) days after the end of each of the first three Fiscal Quarters of each Fiscal Year or five (5) days after the date such information is required to be filed with the SEC, the consolidated balance sheets of the Parent and its Subsidiaries as at the end of such Fiscal Quarter and the related consolidated statements of income and cash flows of the Parent and its Subsidiaries for such Fiscal Quarter and for the period from the beginning of the then current Fiscal Year to the end of such Fiscal Quarter, setting forth in each case in comparative form the corresponding figures for the corresponding periods of the previous Fiscal Year, all in reasonable detail and consistent in all material respects with the manner of presentation as of the Effective Date, together with a Financial Officer Certification with respect thereto;

(b) Audited Annual Financial Statements for the Parent and its Subsidiaries. Upon the earlier of the date that is ninety (90) days after the end of each Fiscal Year of the Parent or five (5) days after the date such information is required to be filed with the SEC, (i) the consolidated balance sheets of the Parent and its Subsidiaries as at the end of such Fiscal Year and the related consolidated statements of income, stockholders' equity and cash flows of the Parent and its Subsidiaries for such Fiscal Year, setting forth in each case in comparative form the corresponding figures for the previous Fiscal Year, in reasonable detail and consistent in all material respects with the manner of presentation as of the Effective Date, together with a Financial Officer Certification with respect thereto; and (ii) with respect to such consolidated financial statements a report thereon of RubinBrown LLP or other independent certified public accountants of recognized national standing (or independent certified public accountants of regional standing that are reasonably acceptable to the Required Lenders) selected by the Parent, which report shall be unqualified as to going concern and scope of audit, and shall state that such consolidated financial statements fairly present, in all material respects, the consolidated financial position of the Parent and its Subsidiaries as at the dates indicated and the results of their operations and their cash flows for the periods indicated in conformity with GAAP applied on a basis consistent with prior years (except as otherwise disclosed in such financial statements) and that the examination by such accountants in connection with such consolidated financial statements has been made in accordance with generally accepted auditing standards;

(c) Compliance Certificate. Together with each delivery of the financial statements pursuant to clauses (a) and (b) of Section 7.1 a duly completed Compliance Certificate;

(d) Annual Budget. Within fifteen (15) days prior to the end of each Fiscal Year of the Parent, forecasts prepared by management of the Parent, in form reasonably satisfactory to the Administrative Agent and the Required Lenders, of consolidated balance sheets and statements of income or operations and cash flows of the Parent and its Subsidiaries for the immediately following Fiscal Year (including the Fiscal Year in which the Revolving Commitment Termination Date occurs);

(e) Information Regarding Collateral. Each Credit Party will furnish to the Collateral Agent prior written notice of any change (i) in such Credit Party's legal name, (ii) in such Credit Party's corporate structure, (iii) in such Credit Party's Federal Taxpayer Identification Number or (iv) in such Credit Party's jurisdiction of incorporation, formation or organization, as applicable;

(f) Securities and Exchange Commission Filings. Promptly after the same are filed, copies of all annual, regular, periodic and special reports, other reports, financial statements, communications set to the shareholders of the Parent and registration statements that, in each case the Parent may file or be required to file with the SEC under Section 13, 14 or 15(d) of the Exchange Act, provided that any documents required to be delivered pursuant to this Section 7.1(f) shall be deemed to have been delivered on the date (i) on which the Parent posts such documents, or provides a link thereto on the Parent's website; or (ii) on which such documents are posted on the Parent's behalf on SyndTrak or another relevant website, if any to which each Lender and the Administrative Agent have access (whether a commercial, third-party website or whether sponsored by the Administrative Agent); provided, further, that: (x) upon written request by the Administrative Agent, the Parent shall deliver paper copies of such documents to the Administrative Agent for further distribution to each Lender until a written request to cease delivering paper copies is given by the Administrative Agent and (y) the Parent shall notify (which may be by facsimile or electronic mail) the Administrative Agent of the posting of any such documents and provide to the Administrative Agent by electronic mail electronic versions (i.e., soft copies) of such documents. Notwithstanding anything to the contrary, as to any information contained in materials furnished pursuant to this Section 7.1(f), the Parent shall not be separately required to furnish such information under Sections 7.1(a) or (b) above or pursuant to any other requirement of this Agreement or any other Credit Document;

(g) Notice of Default and Material Adverse Effect. Promptly upon any Authorized Officer of any Credit Party obtaining knowledge (i) of any condition or event that constitutes a Default or an Event of Default or that notice has been given to any Credit Party with respect thereto; (ii) that any Person has given any notice to any Credit Party or any of its Subsidiaries or taken any other action with respect to any event or condition set forth in Section 9.1(b), or (iii) the occurrence of any Material Adverse Effect, a certificate of its Authorized Officers specifying the nature and period of existence of such condition, event or change, or specifying the notice given and action taken by any such Person and the nature of such claimed Event of Default, Default, event or condition or change, and what action the Credit Parties have taken, are taking and propose to take with respect thereto;

(h) ERISA. (i) Promptly upon becoming aware of the occurrence of or forthcoming occurrence of any ERISA Event, a written notice specifying the nature thereof, what action the any Credit Party, any of its Subsidiaries or any of their respective ERISA Affiliates has taken, is taking or proposes to take with respect thereto and, when known, any action taken or threatened by the Internal Revenue Service, the Department of Labor or the PBGC with respect thereto; and (ii) (1) promptly upon reasonable request of the Administrative Agent, copies of each Schedule B (Actuarial Information) to the annual report (Form 5500 Series) filed by any Credit Party, any of its Subsidiaries or any of their respective ERISA Affiliates with respect to each Pension Plan; and (2) promptly after their receipt, copies of all notices received by any Credit Party, any of its Subsidiaries or any of their respective ERISA Affiliates from a Multiemployer Plan sponsor concerning an ERISA Event;

(i) Securities and Exchange Commission Investigations. Promptly, and in any event within five (5) Business Days after receipt thereof by any Credit Party or any Subsidiary thereof, copies of each notice or other correspondence received from the Securities and Exchange Commission (or comparable agency in any applicable non-U.S. jurisdiction) concerning any investigation or possible investigation or other inquiry by such agency regarding financial or other operational results of any Credit Party or any Subsidiary thereof; and

(j) Other Information. (i) Promptly upon their becoming available, such other information and data with respect to the Parent or any of its Subsidiaries as from time to time may be reasonably requested by the Administrative Agent or the Required Lenders and (ii) prompt written notice of any change to the information set forth in any Beneficial Ownership Certificate that would result in a change to the list of beneficial owners set forth therein.

Each notice pursuant to clauses (h) and (i) of this Section 7.1 shall be accompanied by a statement of an Authorized Officer of the Parent setting forth details of the occurrence referred to therein and stating what action the Parent and/or the other applicable Credit Party has taken and proposes to take with respect thereto. Each notice pursuant to Section 7.1(g) shall describe with particularity any and all provisions of this Agreement and any other Credit Document that have been breached.

Section 7.2 Existence. Each Credit Party will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect its existence and all rights and franchises, licenses and permits material to its business, except to the extent permitted by Section 8.9 or not constituting an Asset Sale hereunder.

Section 7.3 Payment of Taxes and Claims. Each Credit Party will, and will cause each of its Subsidiaries to, pay (a) all federal, state and other material taxes imposed upon it or any of its properties or assets or in respect of any of its income, businesses or franchises before any penalty or fine accrues thereon and (b) all claims (including claims for labor, services, materials and supplies) for sums that have become due and payable and that by law have or may become a Lien upon any of its properties or assets, prior to the time when any penalty or fine shall be incurred with respect thereto; provided, no such tax or claim need be paid if it is being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as (i) adequate reserve or other appropriate provision, as shall be required in conformity with GAAP shall have been made therefor, and (ii) in the case of a tax or claim which has or may become a Lien against any of the Collateral, such contest proceedings conclusively operate to stay the sale of any portion of the Collateral to satisfy such tax or claim. The Borrowers will not, nor will they permit any of their Subsidiaries to, file or consent to the filing of any consolidated income tax return with any Person (other than any Borrower or any Subsidiary).

Section 7.4 Maintenance of Properties. Each Credit Party will, and will cause each of its Subsidiaries to, maintain or cause to be maintained in good repair, working order and condition, ordinary wear and tear excepted, all material properties used or useful in the business of any Credit Party and its Subsidiaries and from time to time will make or cause to be made all appropriate repairs, renewals and replacements thereof.

Section 7.5 Insurance. The Credit Parties will maintain or cause to be maintained, with financially sound and reputable insurers, property insurance, such public liability insurance, third party property damage insurance with respect to liabilities, losses or damage in respect of the assets, properties and businesses of the each Credit Party and its Subsidiaries as may customarily be carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses, in each case in such amounts, with such deductibles, covering such risks and otherwise on such terms and conditions as shall be customary for such Persons; provided that each Borrower and each of its Subsidiaries shall maintain at all times pollution legal liability insurance with coverage amounts equal to or greater than, deductibles no greater than, and otherwise with terms and conditions no less favorable to the Lenders than, the pollution legal liability insurance in effect as of the Effective Date or as otherwise reasonably determined by the Borrowers to be consistent with prudent business practices of firms of established reputation in the Borrowers' industry. Without limiting the generality of the foregoing, each of the Borrowers and its Subsidiaries will maintain or cause to be maintained replacement value casualty insurance on the Collateral under such policies of insurance, with such insurance companies, in such amounts, with such deductibles, and covering such risks as are at all times carried or maintained under similar circumstances by Persons of established reputation engaged in similar businesses. Each such policy of insurance shall (a) name the Collateral Agent, on behalf of the holders of the Obligations, as an additional insured thereunder as its interests may appear, and (b) in the case of each property insurance policy, contain a loss payable clause or endorsement, reasonably satisfactory in form and substance to the Collateral Agent, that names the Collateral Agent, on behalf of the holders of the Obligations, as the loss payee thereunder and provides for at least thirty (30) days' prior written notice (or such shorter prior written notice as may be agreed by the Collateral Agent in its reasonable discretion) to the Collateral Agent of any modification or cancellation of such policy.

Section 7.6 Inspections. Each Credit Party will, and will cause each of its Subsidiaries to, permit any representatives designated by the Administrative Agent (or, if any Event of Default has occurred and is continuing, any Lender) to visit and inspect any of its properties, to conduct field audits, to examine its corporate, financial and operating records, and make copies thereof or abstracts therefrom, and to discuss its affairs, finances and accounts with its directors, officers, and independent public accountants, all at the expense of the Borrowers and at such reasonable times during normal business hours and as often as may be reasonably desired, upon reasonable advance notice to the Borrowers; provided, that (x) except as provided in clause (v) below, the Administrative Agent and its designated representatives shall not be reimbursed for more than two (2) such visits/inspections per year, and (y) when an Event of Default has occurred and is continuing, the Administrative Agent or any Lender (or any of their respective representatives or independent contractors) may do any of the foregoing at the expense of the Borrowers at any time during normal business hours and without advance notice.

Section 7.7 Lenders Meetings. The Borrowers will, upon the request of the Administrative Agent or the Required Lenders, participate in a meeting of the Administrative Agent and the Lenders once during each Fiscal Year to be held at the Parent's corporate offices (or at such other location as may be agreed to by the Borrowers and the Administrative Agent) at such time as may be agreed to by the Borrowers and the Administrative Agent.

Section 7.8 Compliance with Laws and Material Contracts. Each Credit Party will comply, and shall cause each of its Subsidiaries and all other Persons, if any, on or occupying any Facilities to comply, with (a) the Patriot Act and OFAC rules and regulations, (b) all other Applicable Laws and (c) all Material Contracts, noncompliance with which, with respect to clauses (b) and (c), could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 7.9 Use of Proceeds. The Credit Parties will use the proceeds of the Credit Extensions (a) for general corporate and working capital purposes, (b) to refinance simultaneously with the closing of this Agreement the Indebtedness under the Existing Credit Agreement, (c) to finance Permitted Acquisitions and to pay fees, costs and expenses in connection therewith, whether or not consummated and/or (d) to pay transaction fees, costs and expenses related to credit facilities established pursuant to this Agreement and the other Credit Documents, in each case not in contravention of Applicable Laws or of any Credit Document. No portion of the proceeds of any Credit Extension shall be used (i) to refinance any commercial paper, (ii) in any manner that causes or might cause such Credit Extension or the application of such proceeds to violate Regulation T, Regulation U or Regulation X of the Board of Governors of the Federal Reserve System as in effect from time to time or any other regulation thereof or to violate the Exchange Act, (iii) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws, or (iv) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned Country.

Section 7.10 Environmental Matters.

(a) Environmental Disclosure. Each Credit Party will deliver to the Administrative Agent and the Lenders with reasonable promptness, such documents and information as from time to time may be reasonably requested by the Administrative Agent or any Lender.

(b) Hazardous Materials Activities, Etc. Each Borrower shall promptly take, and shall cause each of its Subsidiaries promptly to take, any and all actions necessary to (i) cure any violation of applicable Environmental Laws by such Credit Party or its Subsidiaries that would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, and (ii) respond to any Environmental Claim against such Credit Party or any of its Subsidiaries and discharge any obligations it may have to any Person thereunder where failure to do so would reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

Section 7.11 Pledge of Personal Property Assets.

(a) Equity Interests. Each Borrower and each other Credit Party shall cause (i) one hundred percent (100%) of the issued and outstanding Equity Interests of each Domestic Subsidiary and (ii) sixty-five percent (65%) (or such greater percentage that (A) could not reasonably be expected to cause the undistributed earnings of such Foreign Subsidiary as determined for United States federal income tax purposes to be treated as a deemed dividend to such Foreign Subsidiary's United States parent and (B) could not reasonably be expected to cause any material adverse tax consequences) of the issued and outstanding Equity Interests entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) and one hundred percent (100%) of the issued and outstanding Equity Interests not entitled to vote (within the meaning of Treas. Reg. Section 1.956-2(c)(2)) in the case of each Foreign Subsidiary, in each case, that is directly owned by any Credit Party to be subject at all times to a first priority lien (subject to any Permitted Lien) in favor of the Collateral Agent, for the benefit of the holders of the Obligations, pursuant to the terms and conditions of the Collateral Documents, together with opinions of counsel and any filings and deliveries or other items reasonably requested by the Collateral Agent necessary in connection therewith (to the extent not delivered on the Effective Date) to perfect the security interests therein, all in form and substance reasonably satisfactory to the Collateral Agent. Notwithstanding anything in this clause (a), the Credit Parties shall not be required to comply with the requirements of this clause (a) if the Collateral Agent, in its reasonable discretion after consultation with the Borrowers, determines that the cost or other negative consequence to the Credit Parties of such compliance is excessive in relation to the value of the collateral security to be afforded thereby.

(b) Personal Property. Each Borrower and each other Credit Party shall (i) cause all of its owned and leased personal property (other than Excluded Property) to be subject at all times to first priority (subject to any Permitted Lien), perfected Liens in favor of the Collateral Agent, for the benefit of the holders of the Obligations, to secure the Obligations pursuant to the terms and conditions of the Collateral Documents or, with respect to any such property acquired subsequent to the Effective Date, such other additional security documents as the Collateral Agent shall reasonably request, subject in any case to Permitted Liens and (ii) deliver such other documentation as the Collateral Agent may reasonably request in connection with the foregoing, including, without limitation, appropriate UCC1 financing statements, certified resolutions and other organizational and authorizing documents of such Person, opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to above and the perfection of the Collateral Agent's Liens thereunder) and other items reasonably requested by the Collateral Agent necessary in connection therewith to perfect the security interests therein, all in form, content and scope reasonably satisfactory to the Collateral Agent. Notwithstanding anything in this clause (b), the Credit Parties shall not be required to (x) enter into any deposit account control agreement or take any other action with respect to deposit accounts, except to the extent provided in Section 2.15 and other provisions of this Agreement regarding Cash Collateral and (y) comply with the requirements of this clause (b) if the Collateral Agent, in its reasonable discretion after consultation with the Borrowers, determines that the cost or other negative consequence to the Credit Parties of such compliance is excessive in relation to the value of the collateral security to be afforded thereby.

Section 7.12 Books and Records. Each Credit Party will keep proper books of record and account in which full, true and correct entries shall be made of all dealings and transactions in relation to its business and activities to the extent necessary to prepare the consolidated financial statements of the Parent in conformity with GAAP.

Section 7.13 Additional Subsidiaries.

Within thirty (30) days (or such later date as is agreed by the Administrative Agent) after the acquisition or formation of any Subsidiary (or, with respect to clause (b) below, within thirty (30) days (or such later date as is agreed by the Administrative Agent) after the date on which a Domestic Subsidiary that was formerly an Immaterial Subsidiary ceases to be an Immaterial Subsidiary):

(a) notify the Administrative Agent thereof in writing, together with the (i) jurisdiction of formation, (ii) number of shares of each class of Equity Interests outstanding, (iii) number and percentage of outstanding shares of each class owned (directly or indirectly) by any Borrower or any Subsidiary and (iv) number and effect, if exercised, of all outstanding options, warrants, rights of conversion or purchase and all other similar rights with respect thereto; and

(b) if such Subsidiary is a Material Domestic Subsidiary, cause such Person to (i) become a Guarantor by executing and delivering to the Administrative Agent a Guarantor Joinder Agreement or such other documents as the Administrative Agent shall deem appropriate for such purpose, and (ii) deliver to the Administrative Agent documents of the types referred to in Sections 5.1(b) and (d) and favorable opinions of counsel to such Person (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to in the immediately foregoing clause (i)), all in form, content and scope satisfactory to the Administrative Agent.

Section 8. NEGATIVE COVENANTS

Each Credit Party covenants and agrees that until the Obligations shall have been paid in full or otherwise satisfied, and the Commitments hereunder shall have expired or been terminated, such Credit Party shall perform, and shall cause each of its Subsidiaries to perform, all covenants in this Section 8.

Section 8.1 Indebtedness. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or guaranty, or otherwise become or remain directly or indirectly liable with respect to any Indebtedness, other than:

- (a) the Obligations;
- (b) Indebtedness of any Borrower to any other Credit Party;
- (c) Guarantees with respect to Indebtedness permitted under this Section 8.1;
- (d) Indebtedness existing on the Effective Date and described in Schedule 8.1, together with any Permitted Refinancing thereof;

(e) Indebtedness with respect to (x) Capital Leases and (y) purchase money Indebtedness; provided, in the case of clause (x), that any such Indebtedness shall be secured only by the asset subject to such Capital Lease, and, in the case of clause (y), that any such Indebtedness shall be secured only by the asset acquired in connection with the incurrence of such Indebtedness; provided further that the sum of the aggregate principal amount of any Indebtedness under this clause (e) shall not exceed at any time \$7,500,000;

(f) Indebtedness in respect of any Swap Agreement that is entered into in the ordinary course of business to hedge or mitigate risks to which any Credit Party or any of its Subsidiaries is exposed in the conduct of its business or the management of its liabilities (it being acknowledged by each Borrower that a Swap Agreement entered into for speculative purposes or of a speculative nature is not a Swap Agreement entered into in the ordinary course of business to hedge or mitigate risks);

(g) Indebtedness arising in connection with the financing of insurance premiums in the ordinary course of business;

(h) to the extent constituting Indebtedness, all obligations in connection with each Permitted Acquisition, including, without limitation, Earn Out Obligations;

(i) Indebtedness representing deferred compensation to officers, directors, employees of the Borrowers and their Subsidiaries; and

(j) unsecured Indebtedness of the Borrowers in an aggregate amount not to exceed at any time \$30,000,000, so long as at the time of incurrence of such unsecured Indebtedness (i) no Default or Event of Default then exists or arises therefrom and (ii) after giving effect to the incurrence of any such unsecured Indebtedness on a Pro Forma Basis, the Credit Parties are in compliance with the covenants set forth in clauses (a) and (b) of Section 8.8.

Section 8.2 Liens. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, create, incur, assume or permit to exist any Lien on or with respect to any property or asset of any kind (including any document or instrument in respect of goods or accounts receivable) of any Credit Party or any of its Subsidiaries, whether now owned or hereafter acquired, created or licensed or any income, profits or royalties therefrom, or file or permit the filing of, or permit to remain in effect, any financing statement or other similar notice of any Lien with respect to any such property, asset, income, profits or royalties under the UCC of any State or under any similar recording or notice statute or under any Applicable Laws related to intellectual property, except:

(a) Liens in favor of the Collateral Agent for the benefit of the holders of the Obligations granted pursuant to any Credit Document;

(b) Liens for Taxes not yet due or for Taxes if obligations with respect to such Taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted;

(c) statutory Liens of landlords, banks, carriers, warehousemen, mechanics, repairmen, workmen and materialmen, and other Liens imposed by law (other than any such Lien imposed pursuant to Section 430(k) of the Internal Revenue Code or Section 303(k) or 4068 of ERISA that would constitute an Event of Default under Section 9.1(j)), in each case incurred in the ordinary course of business (i) for amounts not yet overdue, or (ii) for amounts that are overdue and that are being contested in good faith by appropriate proceedings, so long as such reserves or other appropriate provisions, if any, as shall be required by GAAP shall have been made for any such contested amounts;

(d) Liens incurred in the ordinary course of business in connection with workers' compensation, unemployment insurance and other types of social security, or to secure the performance of tenders, statutory obligations, surety and appeal bonds, bids, leases, government contracts, trade contracts, performance and return-of-money bonds and other similar obligations (exclusive of obligations for the payment of borrowed money or other Indebtedness), so long as no foreclosure, sale or similar proceedings have been commenced with respect to any portion of the Collateral on account thereof;

(e) easements, rights-of-way, restrictions, encroachments, and other minor defects or irregularities in title, in each case which do not and will not interfere in any material respect with the ordinary conduct of the business of any Credit Party or any of its Subsidiaries;

(f) any interest or title of a lessor or sublessor under any lease of real estate permitted hereunder;

(g) Liens solely on any cash earnest money deposits made by any Credit Party or any of its Subsidiaries in connection with any letter of intent, or purchase agreement permitted hereunder;

(h) purported Liens evidenced by the filing of precautionary UCC financing statements relating solely to operating leases of personal property entered into in the ordinary course of business;

(i) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(j) any zoning or similar law or right reserved to or vested in any governmental office or agency to control or regulate the use of any real property;

(k) licenses of patents, trademarks and other intellectual property rights granted by any Credit Party or any of its Subsidiaries in the ordinary course of business and not interfering in any respect with the ordinary conduct of the business of such Credit Party or such Subsidiary;

(l) Liens existing as of the Effective Date and described in Schedule 8.2;

(m) Liens securing purchase money Indebtedness and Capital Leases to the extent permitted pursuant to Section 8.1(e); provided, any such Lien shall encumber only the asset acquired with the proceeds of such Indebtedness or the assets subject to such Capital Lease, respectively;

(n) Liens in favor of the Issuing Bank or the Swingline Lender on cash collateral securing the obligations of a Defaulting Lender to fund risk participations hereunder;

(o) Liens consisting of judgment or judicial attachment liens relating to judgments which do not constitute an Event of Default hereunder;

(p) licenses (including licenses of Intellectual Property), sublicenses, leases or subleases granted to third parties in the ordinary course of business;

(q) Liens in favor of collecting banks under Section 4-210 of the UCC;

- (r) Liens (including the right of set-off) in favor of a bank or other depository institution arising as a matter of law encumbering deposits;
- (s) Liens arising out of conditional sale, title retention, consignment or similar arrangements for the sale of goods in the ordinary course of business; and
- (t) Liens not otherwise permitted hereunder securing Indebtedness or other obligations not in excess of \$500,000 in the aggregate at any one time outstanding;

provided, however, that, notwithstanding anything to the contrary in the foregoing provisions of this Section 8.2, no Lien securing Indebtedness for borrowed money shall be permitted on all or any portion of the manufacturing facility located at 2800 Gap Road, Batesville, Arkansas 72501.

Section 8.3 No Further Negative Pledges. No Credit Party shall, nor shall it permit any of its Subsidiaries to, enter into any Contractual Obligation (other than this Agreement and the other Credit Documents) that limits the ability of any Credit Party or any such Subsidiary to create, incur, assume or suffer to exist Liens on property of such Person; provided, however, that this Section 8.3 shall not prohibit (i) any negative pledge incurred or provided in favor of any holder of Indebtedness permitted under Section 8.1(e), solely to the extent any such negative pledge relates to the property financed by or subject to Permitted Liens securing such Indebtedness, (ii) any Permitted Lien or any document or instrument governing any Permitted Lien; provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien, (iii) customary restrictions and conditions contained in any agreement relating to the disposition of any property or assets permitted under Section 8.9 pending the consummation of such disposition, and (iv) customary provisions restricting assignments, subletting or other transfers contained in leases, licenses, joint venture agreements and similar agreements entered into in the ordinary course of business.

Section 8.4 Restricted Payments. No Credit Party shall, nor shall it permit any of its Subsidiaries to, declare or make, directly or indirectly, any Restricted Payment, or incur any obligation (contingent or otherwise) to do so, except that:

- (a) each Subsidiary of any Credit Party may make Restricted Payments to such Credit Party; and
- (b) each Credit Party may declare and make dividend payments or other distributions payable solely in the Equity Interests of such Person; and

(c) the Parent may make other Restricted Payments, so long as (i) no Default or Event of Default shall exist and be continuing immediately before or immediately after giving effect to such Restricted Payment, (ii) after giving effect to such Restricted Payment on a Pro Forma Basis (including the incurrence of any Indebtedness in connection therewith), (A) the Consolidated Leverage Ratio shall not exceed 2.75 to 1.0 and (B) the Credit Parties shall be in compliance with the financial covenant set forth in clause (b) of Section 8.8 and (iii) after giving effect to such Restricted Payment, the Minimum Liquidity shall be at least \$50,000,000.

Section 8.5 Burdensome Agreements. No Credit Party shall, nor shall it permit any of its Subsidiaries to, enter into, or permit to exist, any Contractual Obligation that encumbers or restricts the ability of any such Person to (i) pay dividends or make any other distributions to any Borrower or other Credit Party on its Equity Interests or with respect to any other interest or participation in, or measured by, its profits, (ii) pay any Indebtedness or other obligation owed to any Borrower or any other Credit Party, (iii) make loans or advances to any Borrower or any other Credit Party, (iv) sell, lease or transfer any of its property to any Borrower or any other Credit Party, (v) pledge its property pursuant to the Credit Documents or any renewals, refinancings, exchanges, refundings or extension thereof or (vi) act as a Borrower pursuant to the Credit Documents or any renewals, refinancings, exchanges, refundings or extension thereof, except (in respect of any of the matters referred to in clauses (i)-(iv) above) for (1) this Agreement and the other Credit Documents, (2) any document or instrument governing Indebtedness incurred pursuant to Section 8.1(e); provided that any such restriction contained therein relates only to the asset or assets constructed or acquired in connection therewith, (3) any Permitted Lien or any document or instrument governing any Permitted Lien, provided that any such restriction contained therein relates only to the asset or assets subject to such Permitted Lien or (4) customary restrictions and conditions contained in any agreement relating to the sale of any property permitted under Section 8.9 pending the consummation of such sale.

Section 8.6 Investments. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, make or own any Investment in any Person, including any joint venture and any Foreign Subsidiary, except:

- (a) Investments in cash and Cash Equivalents and deposit accounts or securities accounts in connection therewith;
- (b) equity Investments owned as of the Effective Date in any Subsidiary;
- (c) intercompany loans to the extent permitted under Section 8.1(b) and guarantees to the extent permitted under Section 8.1(c);
- (d) Investments in any Person that is a Credit Party prior to giving effect to such Investment;
- (e) Investments by any Subsidiary of the Parent that is not a Credit Party in any other Subsidiary of the Parent that is not a Credit Party;
- (f) Investments existing on the Effective Date and described on Schedule 8.6;
- (g) Investments constituting Swap Agreements permitted by Section 8.1(f);
- (h) Permitted Acquisitions;
- (i) Investments constituting accounts receivable, trade debt and deposits for the purchase of goods, in each case made in the ordinary course of business;
- (j) Investments in Marketable Securities acquired in accordance with the Parent's investment policies (as approved by the Parent's board of directors);
- (k) loans or advances to employees, officers or directors of the Parent or any Subsidiary in the ordinary course of business for travel, relocation and related expenses; provided, that (i) there exists no Default or Event of Default at the time that such loans or advances are made and (ii) the aggregate amount of all such loans and advances does not exceed \$1,250,000 at any time outstanding; and
- (l) other Investments not listed above and not otherwise prohibited by this Agreement in an aggregate amount outstanding at any time (on a cost basis) not to exceed \$15,000,000, so long as at the time such Investment is made, no Default or Event of Default then exists or arises therefrom.

Notwithstanding the foregoing, in no event shall any Credit Party make any Investment which results in or facilitates in any manner any Restricted Payment not otherwise permitted under the terms of Section 8.4.

Section 8.7 Use of Proceeds. No Credit Party shall use the proceeds of any Credit Extension of the Loans except pursuant to Section 7.9.

Section 8.8 Financial Covenants. The Credit Parties shall not:

- (a) Consolidated Leverage Ratio. Permit the Consolidated Leverage Ratio as of the end of any Fiscal Quarter to be greater than 3.00 to 1.0.
- (b) Consolidated Interest Coverage Ratio. Permit the Consolidated Interest Coverage Ratio as of the end of any Fiscal Quarter to be less than 3.00 to 1.0.

Section 8.9 Fundamental Changes: Disposition of Assets: Acquisitions. No Credit Party shall, nor shall it permit any of its Subsidiaries to, enter into any Acquisition or transaction of merger or consolidation, or liquidate, wind-up or dissolve itself (or suffer any liquidation or dissolution), or make any Asset Sale, or acquire by purchase or otherwise (other than purchases or other acquisitions of inventory and materials and the acquisition of equipment and capital expenditures in the ordinary course of business) the business, property or fixed assets of, or Equity Interests or other evidence of beneficial ownership of, any Person or any division or line of business or other business unit of any Person, except:

- (a) any Subsidiary of any Borrower may be merged with or into such Borrower or any other Subsidiary, or be liquidated, wound up or dissolved, or all or any part of its business, property or assets may be conveyed, sold, leased, transferred or otherwise disposed of, in one transaction or a series of transactions, to such Borrower or any other Subsidiary; provided, in the case of such a merger, (i) if any Borrower is party to the merger, such Borrower shall be the continuing or surviving Person and (ii) if any Guarantor is a party to such merger, then a Guarantor shall be the continuing or surviving Person;
- (b) Asset Sales the proceeds of which when aggregated with the proceeds of all other Asset Sales made within the same Fiscal Year, do not exceed \$10,000,000;
- (c) the sale of Marketable Securities for cash or other Marketable Securities; and
- (d) Investments made in accordance with Section 8.6.

Section 8.10 Disposal of Subsidiary Interests. Except for any sale of all of its interests in the Equity Interests of any of its Subsidiaries in compliance with the provisions of Section 8.9 and except for Liens securing the Obligations, no Credit Party shall, nor shall it permit any of its Subsidiaries to, (a) directly or indirectly sell, assign, pledge or otherwise encumber or dispose of any Equity Interests of any of its Subsidiaries, except to qualify directors if required by Applicable Laws; or (b) permit any of its Subsidiaries directly or indirectly to sell, assign, pledge or otherwise encumber or dispose of any Equity Interests of any of its Subsidiaries, except to another Credit Party (subject to the restrictions on such disposition otherwise imposed hereunder), or to qualify directors if required by Applicable Laws.

Section 8.11 Sales and Lease-Backs. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, become or remain liable as lessee or as a guarantor or other surety with respect to any lease of any property (whether real, personal or mixed), whether now owned or hereafter acquired, which the Credit Party or any Subsidiary (a) has sold or transferred or is to sell or to transfer to any other Person (other than any Borrower or any other Credit Party), or (b) intends to use for substantially the same purpose as any other property which has been or is to be sold or transferred by any Borrower or any other Credit Party to any Person (other than any Borrower or any other Credit Party) in connection with such lease.

Section 8.12 Transactions with Affiliates and Insiders. No Credit Party shall, nor shall it permit any of its Subsidiaries to, directly or indirectly, enter into or permit to exist any transaction (including the purchase, sale, lease or exchange of any property or the rendering of any service) with any officer, director or Affiliate of any Borrower or any its Subsidiaries on terms that are less favorable to such Borrower or such Subsidiary, as the case may be, than those that might be obtained at the time from a Person who is not an officer, director or Affiliate of any Borrower or any of its Subsidiaries; provided, the foregoing restriction shall not apply to (a) any transaction between or among the Credit Parties and (b) normal and reasonable compensation and reimbursement of expenses of officers and directors in the ordinary course of business.

Section 8.13 Prepayment of Other Funded Debt. No Credit Party shall, nor shall it permit any of its Subsidiaries to:

(a) after the issuance thereof, amend or modify (or permit the amendment or modification of) the terms of any Funded Debt in a manner adverse to the interests of the Lenders (including specifically shortening any maturity or average life to maturity or requiring any payment sooner than previously scheduled or increasing the interest rate or fees applicable thereto); or

(b) except in connection with a refinancing or refunding permitted hereunder, make any voluntary prepayment, redemption, defeasance or acquisition for value of (including by way of depositing money or securities with the trustee with respect thereto before due for the purpose of paying when due), or refund, refinance or exchange of, any Funded Debt (other than the Indebtedness under the Credit Documents, intercompany Indebtedness permitted hereunder and Indebtedness permitted under Section 8.1(b)).

Section 8.14 Conduct of Business. From and after the Effective Date, no Credit Party shall, nor shall it permit any of its Subsidiaries to, engage in any business other than the businesses engaged in by such Credit Party or such Subsidiary on the Effective Date and businesses that are substantially similar, related or incidental thereto.

Section 8.15 Fiscal Year. No Credit Party shall, nor shall it permit any of its Subsidiaries to change its Fiscal Year-end from December 31.

Section 8.16 Amendments to Organizational Agreements/Material Agreements. No Credit Party shall, nor shall it permit any of its Subsidiaries to, amend or permit any amendments to its Organizational Documents if such amendment could reasonably be expected to be materially adverse to the Lenders or any Agent. No Credit Party shall, nor shall it permit any of its Subsidiaries to, amend or permit any amendment to, or terminate or waive any provision of, any Material Contract unless such amendment, termination, or waiver would not have a material adverse effect on the Agents or the Lenders.

Section 8.17 Consolidated Capital Expenditures. The Credit Parties shall not permit Consolidated Capital Expenditures during any Fiscal Year to exceed \$25,000,000.

Section 8.18 [reserved].

Section 9. EVENTS OF DEFAULT; REMEDIES; APPLICATION OF FUNDS.

Section 9.1 Events of Default. If any one or more of the following conditions or events shall occur:

(a) Failure to Make Payments When Due. Failure by any Credit Party to pay (i) the principal of any Loan when due, whether at stated maturity, by acceleration or otherwise; (ii) within one (1) Business Day of when due any amount payable to any Issuing Bank in reimbursement of any drawing under a Letter of Credit; or (iii) within three (3) Business Days of when due any interest on any Loan or any fee or any other amount due hereunder; or

(b) Default in Other Agreements. (i) Failure of any Credit Party or any of its Subsidiaries to pay when due any principal of or interest on or any other amount payable in respect of one or more items of Indebtedness (other than Indebtedness referred to in Section 8.1(a)) in an aggregate principal amount of \$500,000 or more, in each case beyond the grace or cure period, if any, provided therefor; or (ii) breach or default by any Credit Party with respect to any other term of (1) one or more items of Indebtedness in the aggregate principal amounts referred to in clause (i) above, or (2) any loan agreement, mortgage, indenture or other agreement relating to such item(s) of Indebtedness, in each case beyond the grace or cure period, if any, provided therefor, if the effect of such breach or default is to cause, or to permit the holder or holders of that Indebtedness (or a trustee on behalf of such holder or holders), to cause, that Indebtedness to become or be declared due and payable (or subject to a compulsory repurchase or redeemable) prior to its stated maturity or the stated maturity of any underlying obligation, as the case may be; or

(c) Breach of Certain Covenants. Failure of any Credit Party to perform or comply with any term or condition contained in Section 7.1, Section 7.2, Section 7.5, Section 7.6, Section 7.8, Section 7.9, Section 7.10, Section 7.11, Section 7.12, Section 7.13 or Section 8; or

(d) Breach of Representations, etc. Any representation, warranty, certification or other statement made or deemed made by any Credit Party in this Agreement, any other Credit Document or in any statement or certificate at any time given by any Credit Party or any of its Subsidiaries in writing pursuant hereto or thereto or in connection herewith or therewith shall be false in any material respect (or in any respect if such representation, warranty, certification or other statement is already qualified by a Material Adverse Effect or other materiality) as of the date made or deemed made; or

(e) Other Defaults Under Credit Documents. Any Credit Party shall default in the performance of or compliance with any term contained herein or any of the other Credit Documents, other than any such term referred to in any other Section of this Section 9.1, and such default shall not have been remedied or waived within thirty (30) days after the earlier of (i) an Authorized Officer of such Credit Party becoming aware of such default, or (ii) receipt by any Borrower of notice from the Administrative Agent or any Lender of such default; or

(f) Involuntary Bankruptcy; Appointment of Receiver, etc. (i) A court of competent jurisdiction shall enter a decree or order for relief in respect of any Credit Party or any of its Subsidiaries in an involuntary case under the Bankruptcy Code or Debtor Relief Laws now or hereafter in effect, which decree or order is not stayed; or any other similar relief shall be granted under any applicable federal or state law; or (ii) an involuntary case shall be commenced against any Credit Party or any of its Subsidiaries under the Bankruptcy Code or other Debtor Relief Laws now or hereafter in effect; or a decree or order of a court having jurisdiction in the premises for the appointment of a receiver, liquidator, sequester, trustee, custodian or other officer having similar powers over any Credit Party or any of its Subsidiaries, or over all or a substantial part of its property, shall have been entered; or there shall have occurred the involuntary appointment of an interim receiver, trustee or other custodian of any Credit Party or any of its Subsidiaries for all or a substantial part of its property; or a warrant of attachment, execution or similar process shall have been issued against any substantial part of the property of any Credit Party or any of its Subsidiaries, and any such event described in this clause (ii) shall continue for sixty (60) days without having been dismissed, bonded or discharged; or

(g) Voluntary Bankruptcy; Appointment of Receiver, etc. (i) Any Credit Party or any of its Subsidiaries shall have an order for relief entered with respect to it or shall commence a voluntary case under the Bankruptcy Code or other Debtor Relief Laws now or hereafter in effect, or shall consent to the entry of an order for relief in an involuntary case, or to the conversion of an involuntary case to a voluntary case, under any such law, or shall consent to the appointment of or taking possession by a receiver, trustee or other custodian for all or a substantial part of its property; or any Credit Party or any of its Subsidiaries shall make any assignment for the benefit of creditors; or (ii) any Credit Party or any of its Subsidiaries shall be unable, or shall fail generally, or shall admit in writing its inability, to pay its debts as such debts become due; or the board of directors (or similar governing body) of any Credit Party or any of its Subsidiaries or any committee thereof shall adopt any resolution or otherwise authorize any action to approve any of the actions referred to herein or in Section 9.1(f); or

(h) Judgments and Attachments. (i) Any one or more money judgments, writs or warrants of attachment or similar process involving an aggregate amount at any time in excess of \$500,000 (to the extent not adequately covered by insurance as to which a solvent and unaffiliated insurance company has acknowledged coverage) shall be entered or filed against any Credit Party or any of its Subsidiaries or any of their respective assets and shall remain undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days; or (ii) any non-monetary judgment or order shall be rendered against any Credit Party or any of its Subsidiaries that could reasonably be expected to have a Material Adverse Effect, and shall remain undischarged, unvacated, unbonded or unstayed for a period of sixty (60) days; or

(i) Dissolution. Any order, judgment or decree shall be entered against any Credit Party or any of its Subsidiaries decreeing the dissolution or split up of such Credit Party or such Subsidiary and such order shall remain undischarged or unstayed for a period in excess of thirty (30) days; or

(j) Pension Plans. There shall occur one or more ERISA Events which individually or in the aggregate results in liability of any Credit Party, any of its Subsidiaries or any of their respective ERISA Affiliates in excess of \$500,000 during the term hereof and which is not paid by the applicable due date; or

(k) Change of Control. A Change of Control shall occur; or

(l) Invalidity of Credit Documents and Other Documents. At any time after the execution and delivery thereof, (i) this Agreement or any other Credit Document ceases to be in full force and effect (other than by reason of a release of Collateral in accordance with the terms hereof or thereof or the satisfaction in full of the Obligations (other than contingent and indemnified obligations not then due and owing) in accordance with the terms hereof) or shall be declared null and void, or the Collateral Agent shall not have or shall cease to have a valid and perfected Lien in any Collateral purported to be covered by the Collateral Documents with the priority required by the relevant Collateral Document, or (ii) any Credit Party shall contest the validity or enforceability of any Credit Document in writing or deny in writing that it has any further liability, including with respect to future advances by the Lenders, under any Credit Document to which it is a party.

Section 9.2 Remedies. (a) Upon the occurrence of any Event of Default described in Section 9.1(f) or Section 9.1(g), automatically, and (b) upon the occurrence and during the continuance of any other Event of Default, at the request of (or with the consent of) the Required Lenders, upon notice to the Borrowers by the Administrative Agent, (i) the Revolving Commitments, if any, of each Lender having such Revolving Commitments and the obligation of any Issuing Bank to issue any Letter of Credit shall immediately terminate; (ii) each of the following shall immediately become due and payable, in each case without presentment, demand, protest or other requirements of any kind, all of which are hereby expressly waived by each of the Credit Parties: (A) the unpaid principal amount of and accrued interest on the Loans, (B) an amount equal to the maximum amount that may at any time be drawn under all Letters of Credit then outstanding (regardless of whether any beneficiary under any such Letter of Credit shall have presented, or shall be entitled at such time to present, the drafts or other documents or certificates required to draw under such Letters of Credit), and (C) all other Obligations; provided, the foregoing shall not affect in any way the obligations of the Lenders under Section 2.2(b)(iii) or Section 2.3(e); (iii) the Administrative Agent may cause the Collateral Agent to enforce any and all Liens and security interests created pursuant to Collateral Documents and (iv) the Administrative Agent shall direct the Borrowers to pay (and each Borrower hereby agrees upon receipt of such notice, or upon the occurrence of any Event of Default specified in Section 9.1(f) and Section 9.1(g) to pay) to the Administrative Agent such additional amounts of cash, to be held as security for such Borrower's reimbursement Obligations in respect of Letters of Credit then outstanding under arrangements acceptable to the Administrative Agent, equal to the Outstanding Amount of the Letter of Credit Obligations at such time. Notwithstanding anything herein or otherwise to the contrary, any Event of Default occurring hereunder shall continue to exist (and shall be deemed to be continuing) until such time as such Event of Default has been cured to the satisfaction of the Required Lenders or waived in writing in accordance with the terms of Section 11.4.

Section 9.3 Application of Funds. After the exercise of remedies provided for in Section 9.2 (or after the Loans have automatically become immediately due and payable), any amounts received on account of the Obligations shall be applied by the Administrative Agent in the following order:

First, to payment of that portion of the Obligations constituting fees, indemnities, expenses and other amounts (other than principal, interest and Letter of Credit Fees but including without limitation all reasonable out-of-pocket fees, expenses and disbursements of any law firm or other counsel and amounts payable under Section 3.1, Section 3.2 and Section 3.3) payable to the Administrative Agent and the Collateral Agent, in each case in its capacity as such;

Second, to payment of that portion of the Obligations constituting fees, indemnities and other amounts (other than principal, interest and Letter of Credit Fees) payable to the Lenders including without limitation all reasonable out-of-pocket fees, expenses and disbursements of any law firm or other counsel and amounts payable under Section 3.1, Section 3.2 and Section 3.3), ratably among the Lenders in proportion to the respective amounts described in this clause Second payable to them;

Third, to payment of that portion of the Obligations constituting accrued and unpaid Letter of Credit Fees and interest on the Loans, Letter of Credit Borrowings and other Obligations ratably among such parties in proportion to the respective amounts described in this clause Third payable to them; and

Fourth, to (a) payment of that portion of the Obligations constituting unpaid principal of the Loans and Letter of Credit Borrowings, (b) payment of breakage, termination or other amounts owing in respect of any Secured Swap Agreement, to the extent such Secured Swap Agreement is permitted hereunder, (c) payments of amounts due under any Secured Treasury Management Agreement, and (d) the Administrative Agent for the account of the Issuing Banks, to Cash Collateralize that portion of the Letter of Credit Obligations comprised of the aggregate undrawn amount of Letters of Credit, ratably among such parties in proportion to the respective amounts described in this clause Fourth payable to them; and

Last, the balance, if any, after all of the Obligations have been indefeasibly paid in full, to the Borrowers or as otherwise required by Applicable Laws.

Subject to Section 2.3, amounts used to Cash Collateralize the aggregate undrawn amount of Letters of Credit pursuant to clause Fourth above shall be applied to satisfy drawings under such Letters of Credit as they occur. If any amount remains on deposit as Cash Collateral after all Letters of Credit have either been fully drawn or expired, such remaining amount shall be applied to the other Obligations, if any, in the order set forth above.

Excluded Swap Obligations with respect to any Credit Party shall not be paid with amounts received from such Credit Party or such Credit Party's assets, but appropriate adjustments shall be made with respect to payments from other Credit Parties to preserve the allocation to Obligations otherwise set forth above in this Section.

Notwithstanding the foregoing, other than in the case of Secured Swap Obligations or Secured Treasury Management Obligations owing to the Administrative Agent or any of its Affiliates, Secured Swap Obligations and Secured Treasury Management Obligations shall be excluded from the application described above if the Administrative Agent has not received a Secured Party Designation Notice, together with such supporting documentation as the Administrative Agent may request, from the applicable Qualifying Swap Bank or Qualifying Treasury Management Bank, as the case may be. Each Qualifying Swap Bank or Qualifying Treasury Management Bank not a party to this Agreement that has given the notice contemplated by the preceding sentence shall, by such notice, be deemed to have acknowledged and accepted the appointment of the Administrative Agent pursuant to the terms of Section 10 for itself and its Affiliates as if a "Lender" party hereto.

Section 10. AGENCY

Section 10.1 Appointment and Authority

(a) Each of the Lenders and the Issuing Banks hereby irrevocably appoints Regions Bank to act on its behalf as the Administrative Agent hereunder and under the other Credit Documents and authorizes the Administrative Agent to take such actions on its behalf and to exercise such powers as are delegated to the Administrative Agent by the terms hereof or thereof, together with such actions and powers as are reasonably incidental thereto. The provisions of this Section are solely for the benefit of the Administrative Agent, the Lenders and the Issuing Banks, and no Credit Party nor any of its Subsidiaries shall have rights as a third party beneficiary of any of such provisions. It is understood and agreed that the use of the term "agent" herein or in any other Credit Documents (or any other similar term) with reference to the Administrative Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead such term is used as a matter of market custom, and is intended to create or reflect only an administrative relationship between contracting parties.

(b) Each of the Lenders hereby irrevocably appoints, designates and authorizes the Collateral Agent to take such action on its behalf under the provisions of this Agreement and each Collateral Document and to exercise such powers and perform such duties as are expressly delegated to it by the terms of this Agreement or any Collateral Document, together with such powers as are reasonably incidental thereto. Notwithstanding any provision to the contrary contained elsewhere herein or in any Collateral Document, the Collateral Agent shall not have any duties or responsibilities, except those expressly set forth herein or therein, nor shall the Collateral Agent have or be deemed to have any fiduciary relationship with any Lender or participant, and no implied covenants, functions, responsibilities, duties, obligations or liabilities shall be read into this Agreement or any Collateral Document or otherwise exist against the Collateral Agent. Without limiting the generality of the foregoing sentence, the use of the term "agent" herein and in the Collateral Documents with reference to the Collateral Agent is not intended to connote any fiduciary or other implied (or express) obligations arising under agency doctrine of any Applicable Law. Instead, such term is used merely as a matter of market custom, and is intended to create or reflect only an administrative relationship between independent contracting parties. The Collateral Agent shall act on behalf of the Lenders with respect to any Collateral and the Collateral Documents, and the Collateral Agent shall have all of the benefits and immunities (i) provided to the Administrative Agent under the Credit Documents with respect to any acts taken or omissions suffered by the Collateral Agent in connection with any Collateral or the Collateral Documents as fully as if the term "Administrative Agent" as used in such Credit Documents included the Collateral Agent with respect to such acts or omissions, and (ii) as additionally provided herein or in the Collateral Documents with respect to the Collateral Agent.

Section 10.2 Rights as a Lender. The Person serving as the Administrative Agent hereunder shall have the same rights and powers in its capacity as a Lender as any other Lender and may exercise the same as though it were not the Administrative Agent and the term "Lender" or "Lenders" shall, unless otherwise expressly indicated or unless the context otherwise requires, include the Person serving as the Administrative Agent hereunder in its individual capacity. Such Person and its Affiliates may accept deposits from, lend money to, own securities of, act as the financial advisor or in any other advisory capacity for and generally engage in any kind of business with any Borrower or any Subsidiary of any Borrower or other Affiliate thereof as if such Person were not the Administrative Agent hereunder and without any duty to account therefor to the Lenders.

Section 10.3 Exculpatory Provisions.

(a) The Administrative Agent shall not have any duties or obligations except those expressly set forth herein and in the other Credit Documents, and its duties hereunder shall be administrative in nature. Without limiting the generality of the foregoing, the Administrative Agent:

- (i) shall not be subject to any fiduciary or other implied duties, regardless of whether a Default has occurred and is continuing;

(ii) shall not have any duty to take any discretionary action or exercise any discretionary powers, except discretionary rights and powers expressly contemplated hereby or by the other Credit Documents that the Administrative Agent is required to exercise as directed in writing by the Required Lenders (or such other number or percentage of the Lenders as shall be expressly provided for herein or in the other Credit Documents), provided that the Administrative Agent shall not be required to take any action that, in its opinion or the opinion of its counsel, may expose the Administrative Agent to liability or that is contrary to any Credit Document or Applicable Law, including for the avoidance of doubt any action that may be in violation of the automatic stay under any Debtor Relief Law or that may effect a forfeiture, modification or termination of property of a Defaulting Lender in violation of any Debtor Relief Law; and

(iii) shall not, except as expressly set forth herein and in the other Credit Documents, have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to any Borrower or any of its Affiliates that is communicated to or obtained by the Person serving as the Administrative Agent or any of its Affiliates in any capacity.

(b) The Administrative Agent shall not be liable for any action taken or not taken by it (i) with the consent or at the request of the Required Lenders (or such other number or percentage of the Lenders as shall be necessary, or as the Administrative Agent shall believe in good faith shall be necessary, under the circumstances as provided in Sections 11.4 and 9.2) or (ii) in the absence of its own gross negligence or willful misconduct, as determined by a court of competent jurisdiction by final and nonappealable judgment. The Administrative Agent shall be deemed not to have knowledge of any Default unless and until notice describing such Default is given to the Administrative Agent in writing by the Borrowers, a Lender or an Issuing Bank.

(c) The Administrative Agent shall not be responsible for or have any duty to ascertain or inquire into (i) any statement, warranty or representation made in or in connection with this Agreement or any other Credit Document, (ii) the contents of any certificate, report or other document delivered hereunder or thereunder or in connection herewith or therewith, (iii) the performance or observance of any of the covenants, agreements or other terms or conditions set forth herein or therein or the occurrence of any Default, (iv) the validity, enforceability, effectiveness or genuineness of this Agreement, any other Credit Document or any other agreement, instrument or document or (v) the satisfaction of any condition set forth in Section 5 or elsewhere herein, other than to confirm receipt of items expressly required to be delivered to the Administrative Agent.

Section 10.4 Reliance by Administrative Agent. The Administrative Agent shall be entitled to rely upon, and shall not incur any liability for relying upon, any notice, request, certificate, consent, statement, instrument, document or other writing (including any electronic message, Internet or intranet website posting or other distribution) believed by it to be genuine and to have been signed, sent or otherwise authenticated by the proper Person. The Administrative Agent also may rely upon any statement made to it orally or by telephone and believed by it to have been made by the proper Person, and shall not incur any liability for relying thereon. In determining compliance with any condition hereunder to the making of a Loan, or the issuance, extension, renewal or increase of a Letter of Credit, that by its terms must be fulfilled to the satisfaction of a Lender or an Issuing Bank, the Administrative Agent may presume that such condition is satisfactory to such Lender or such Issuing Bank unless the Administrative Agent shall have received notice to the contrary from such Lender or such Issuing Bank prior to the making of such Loan or the issuance of such Letter of Credit. The Administrative Agent may consult with legal counsel (who may be counsel for the Borrowers and their Subsidiaries), independent accountants and other experts selected by it, and shall not be liable for any action taken or not taken by it in accordance with the advice of any such counsel, accountants or experts.

Section 10.5 Delegation of Duties. The Administrative Agent may perform any and all of its duties and exercise its rights and powers hereunder or under any other Credit Document by or through any one or more sub-agents appointed by the Administrative Agent. The Administrative Agent and any such sub-agent may perform any and all of its duties and exercise its rights and powers by or through their respective Related Parties. The exculpatory provisions of this Section shall apply to any such sub-agent and to the Related Parties of the Administrative Agent and any such sub-agent, and shall apply to their respective activities in connection with the syndication of the credit facilities provided for herein as well as activities as Administrative Agent. The Administrative Agent shall not be responsible for the negligence or misconduct of any sub-agents except to the extent that a court of competent jurisdiction determines in a final and non-appealable judgment that the Administrative Agent acted with gross negligence or willful misconduct in the selection of such sub-agents.

Section 10.6 Resignation of Administrative Agent.

(a) The Administrative Agent may at any time give notice of its resignation to the Lenders, the Issuing Banks and the Borrowers. Upon receipt of any such notice of resignation, the Required Lenders shall have the right, in consultation with the Borrowers, to appoint a successor, which shall be a bank with an office in the United States, or an Affiliate of any such bank with an office in the United States. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days after the retiring Administrative Agent gives notice of its resignation (or such earlier day as shall be agreed by the Required Lenders) (the "Resignation Effective Date"), then the retiring Administrative Agent may (but shall not be obligated to) on behalf of the Lenders and the Issuing Banks, appoint a successor Administrative Agent meeting the qualifications set forth above. Whether or not a successor has been appointed such resignation shall become effective in accordance with such notice on the Resignation Effective Date.

(b) If the Person serving as Administrative Agent is a Defaulting Lender pursuant to clause (d) of the definition thereof, the Required Lenders may, to the extent permitted by Applicable Law by notice in writing to the Borrowers and such Person remove such Person as the Administrative Agent and, in consultation with the Borrowers, appoint a successor. If no such successor shall have been so appointed by the Required Lenders and shall have accepted such appointment within thirty (30) days (or such earlier day as shall be agreed by the Required Lenders (the "Removal Effective Date")), then such removal shall nonetheless become effective in accordance with such notice on the Removal Effective Date.

(c) With effect from the Resignation Effective Date or the Removal Effective Date (as applicable) (1) the retiring or removed Administrative Agent shall be discharged from its duties and obligations hereunder and under the other Credit Documents (except that in the case of any collateral security held by the Administrative Agent on behalf of the Lenders or the Issuing Banks under any of the Credit Documents, the retiring or removed Administrative Agent shall continue to hold such collateral security until such time as a successor Administrative Agent is appointed) and (2) except for any indemnity payments owed to the retiring or removed Administrative Agent, all payments, communications and determinations provided to be made by, to or through the Administrative Agent shall instead be made by or to each Lender and each Issuing Bank directly, until such time as the Required Lenders appoint a successor Administrative Agent as provided for above in this Section. Upon the acceptance of a successor's appointment as Administrative Agent hereunder, such successor shall succeed to and become vested with all of the rights, powers, privileges and duties of the retiring or removed Administrative Agent (other than any rights to indemnity payments owed to the retiring or removed Administrative Agent), and the retiring or removed Administrative Agent shall be discharged from all of its duties and obligations hereunder or under the other Credit Documents (if not already discharged therefrom as provided above in this Section). The fees payable by the Borrowers to a successor Administrative Agent shall be the same as those payable to its predecessor unless otherwise agreed between the Borrowers and such successor. After the retiring or removed Administrative Agent's resignation or removal hereunder and under the other Credit Documents, the provisions of this Section 10 and Section 11.2 shall continue in effect for the benefit of such retiring or removed Administrative Agent, its sub-agents and their respective Related Parties in respect of any actions taken or omitted to be taken by any of them while the retiring or removed Administrative Agent was acting as Administrative Agent.

Section 10.7 Non-Reliance on Administrative Agent and Other Lenders. Each of the Lenders and the Issuing Banks acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement. Each of the Lenders and the Issuing Banks also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender or any of their Related Parties and based on such documents and information as it shall from time to time deem appropriate, continue to make its own decisions in taking or not taking action under or based upon this Agreement, any other Credit Document or any related agreement or any document furnished hereunder or thereunder.

Section 10.8 No Other Duties, etc. Anything herein to the contrary notwithstanding, none of the Sole Bookrunner, Sole Lead Arranger or Syndication Agent listed on the cover page hereof shall have any powers, duties or responsibilities under this Agreement or any of the other Credit Documents, except in its capacity, as applicable, as the Administrative Agent, a Lender or an Issuing Bank hereunder.

Section 10.9 Administrative Agent May File Proofs of Claim. In case of the pendency of any proceeding under any Debtor Relief Law or any other judicial proceeding relative to any Credit Party, the Administrative Agent (irrespective of whether the principal of any Loan or Letter of Credit Obligation shall then be due and payable as herein expressed or by declaration or otherwise and irrespective of whether the Administrative Agent shall have made any demand on the Borrowers) shall be entitled and empowered (but not obligated) by intervention in such proceeding or otherwise:

(a) to file and prove a claim for the whole amount of the principal and interest owing and unpaid in respect of the Loans, Letter of Credit Obligations and all other Obligations that are owing and unpaid and to file such other documents as may be necessary or advisable in order to have the claims of the Lenders, the Issuing Banks and the Administrative Agent (including any claim for the reasonable compensation, expenses, disbursements and advances of the Lenders, the Issuing Banks and the Administrative Agent and their respective agents and counsel and all other amounts due the Lenders, the Issuing Banks and the Administrative Agent under Section 2.10 and Section 11.2) allowed in such judicial proceeding; and

(b) to collect and receive any monies or other property payable or deliverable on any such claims and to distribute the same;

and any custodian, receiver, assignee, trustee, liquidator, sequestrator or other similar official in any such judicial proceeding is hereby authorized by each Lender and each Issuing Bank to make such payments to the Administrative Agent and, in the event that the Administrative Agent shall consent to the making of such payments directly to the Lenders and the Issuing Banks, to pay to the Administrative Agent any amount due for the reasonable compensation, expenses, disbursements and advances of the Administrative Agent and its agents and counsel, and any other amounts due the Administrative Agent under Section 2.10 and Section 11.2).

Section 10.10 Collateral Matters.

(a) The Lenders (including each Issuing Bank and the Swingline Lender) irrevocably authorize the Administrative Agent and the Collateral Agent, at its option and in its discretion,

(i) to release any Lien on any property granted to or held under any Credit Document securing the Obligations (x) upon termination of the commitments under this Agreement and payment in full of all Obligations (other than contingent indemnification obligations and obligations under any Secured Swap Agreement or Secured Treasury Management Agreement) and the expiration or termination of all Letters of Credit (other than Letters of Credit as to which other arrangements satisfactory to the Administrative Agent and the applicable Issuing Bank shall have been made), (y) that is sold or otherwise disposed of or to be sold or otherwise disposed of as part of or in connection with any sale or other disposition permitted under the Credit Documents or consented to in accordance with the terms of this Agreement, or (z) subject to Section 11.4, if approved, authorized or ratified in writing by the Required Lenders;

(ii) to subordinate any Lien on any property granted to or held under any Credit Document securing the Obligations to the holder of any Lien on such property that is permitted by Section 8.2(m); and

(iii) to release any Guarantor from its obligations under this Agreement and the other Credit Documents if such Person ceases to be a Subsidiary as a result of a transaction permitted under the Credit Documents.

Upon request by the Administrative Agent or the Collateral Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of property, or to release any Guarantor from its obligations under this Agreement pursuant to this Section.

(b) The Administrative Agent shall not be responsible for or have a duty to ascertain or inquire into any representation or warranty regarding the existence, value or collectability of the Collateral, the existence, priority or perfection of the Administrative Agent's Lien thereon, or any certificate prepared by any Credit Party in connection therewith, nor shall the Administrative Agent be responsible or liable to the Lenders for any failure to monitor or maintain any portion of the Collateral.

(c) Anything contained in any of the Credit Documents to the contrary notwithstanding, each of the Credit Parties, the Administrative Agent, the Collateral Agent and each holder of the Obligations hereby agree that (i) no holder of the Obligations shall have any right individually to realize upon any of the Collateral or to enforce this Agreement, the Notes or any other Credit Document, it being understood and agreed that all powers, rights and remedies hereunder may be exercised solely by the Administrative Agent, on behalf of the holders of the Obligations in accordance with the terms hereof and all powers, rights and remedies under the Collateral Documents may be exercised solely by the Collateral Agent, and (ii) in the event of a foreclosure by the Collateral Agent on any of the Collateral pursuant to a public or private sale or other disposition, the Collateral Agent or any Lender may be the purchaser of any or all of such Collateral at any such sale or other disposition and the Collateral Agent, as agent for and representative of the holders of the Obligations (but not any Lender or Lenders in its or their respective individual capacities unless the Required Lenders shall otherwise agree in writing) shall be entitled, for the purpose of bidding and making settlement or payment of the purchase price for all or any portion of the Collateral sold at any such public sale, to use and apply any of the Obligations as a credit on account of the purchase price for any collateral payable by the Collateral Agent at such sale or other disposition.

(d) No Secured Swap Agreement or Secured Treasury Management Agreement will create (or be deemed to create) in favor of any Qualifying Swap Bank or any Qualifying Treasury Management Bank, respectively that is a party thereto any rights in connection with the management or release of any Collateral or of the obligations of any Borrower or any other Credit Party under the Credit Documents except as expressly provided herein or in the other Credit Documents. By accepting the benefits of the Collateral, each such Qualifying Swap Bank and Qualifying Treasury Management Bank shall be deemed to have appointed the Collateral Agent as its agent and agreed to be bound by the Credit Documents as a holder of the Obligations, subject to the limitations set forth in this clause (d). Furthermore, it is understood and agreed that the Qualifying Swap Bank and Qualifying Treasury Management Banks, in their capacity as such, shall not have any right to notice of any action or to consent to, direct or object to any action hereunder or under any of the other Credit Documents or otherwise in respect of the Collateral (including the release or impairment of any Collateral, or to any notice of or consent to any amendment, waiver or modification of the provisions hereof or of the other Credit Documents) other than in its capacity as a Lender and, in any case, only as expressly provided herein.

Section 10.11 ERISA Representations.

(a) Each Lender (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Credit Party, that at least one of the following is and will be true:

(i) such Lender is not using "plan assets" (within the meaning of Section 3(42) of ERISA or otherwise) of one or more Benefit Plans with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments or this Agreement,

(ii) the transaction exemption set forth in one or more PTEs, such as PTE 84-14 (a class exemption for certain transactions determined by independent qualified professional asset managers), PTE 95-60 (a class exemption for certain transactions involving insurance company general accounts), PTE 90-1 (a class exemption for certain transactions involving insurance company pooled separate accounts), PTE 91-38 (a class exemption for certain transactions involving bank collective investment funds) or PTE 96-23 (a class exemption for certain transactions determined by in-house asset managers), is applicable with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement,

(iii) (A) such Lender is an investment fund managed by a "Qualified Professional Asset Manager" (within the meaning of Part VI of PTE 84-14), (B) such Qualified Professional Asset Manager made the investment decision on behalf of such Lender to enter into, participate in, administer and perform the Loans, the Letters of Credit, the Commitments and this Agreement, (C) the entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement satisfies the requirements of sub-sections (b) through (g) of Part I of PTE 84-14 and (D) to the best knowledge of such Lender, the requirements of subsection (a) of Part I of PTE 84-14 are satisfied with respect to such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement, or

(iv) such other representation, warranty and covenant as may be agreed in writing between the Administrative Agent, in its sole discretion, and such Lender.

(b) In addition, unless either (i) sub-clause (i) in the immediately preceding clause (a) is true with respect to a Lender or (ii) a Lender has provided another representation, warranty and covenant in accordance with sub-clause (iv) in the immediately preceding clause (a), such Lender further (x) represents and warrants, as of the date such Person became a Lender party hereto, to, and (y) covenants, from the date such Person became a Lender party hereto to the date such Person ceases being a Lender party hereto, for the benefit of, the Administrative Agent and not, for the avoidance of doubt, to or for the benefit of any Borrower or any other Credit Party, that the Administrative Agent is not a fiduciary with respect to the assets of such Lender involved in such Lender's entrance into, participation in, administration of and performance of the Loans, the Letters of Credit, the Commitments and this Agreement (including in connection with the reservation or exercise of any rights by the Administrative Agent under this Agreement, any Credit Document or any documents related hereto or thereto).

Section 10.12 Erroneous Payments.

(a) If the Administrative Agent notifies a Lender, the Issuing Bank, any other holder(s) of the Obligations or any other Person(s) who has received funds on behalf of a Lender, the Issuing Bank or any other holder(s) of the Obligations (any such Person, a "Payment Recipient") that the Administrative Agent has determined in its sole discretion (whether or not after its receipt of any notice delivered pursuant to clause (b) below) that any funds received by such Payment Recipient from the Administrative Agent, or any of its Affiliates, were erroneously transmitted to, or otherwise erroneously or mistakenly received by, such Payment Recipient (whether or not known to such Lender, Issuing Bank, other holder(s) of the Obligations or other Payment Recipient on its behalf) (any such funds, whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise, individually and collectively, an "Erroneous Payment") and demands the return of such Erroneous Payment (or a portion thereof), such Erroneous Payment shall, at all times, remain the property of the Administrative Agent and shall be segregated by the Payment Recipient and held in trust for the benefit of the Administrative Agent, and such Payment Recipient shall (or, with respect to any Payment Recipient who received such funds on its behalf, shall cause such Payment Recipient to) promptly, but in *no* event *later than* two (2) Business Days thereafter, return to the Administrative Agent the amount of any such Erroneous Payment (or portion thereof) as to which such a demand was made, in same day funds (in the currency so received), together with interest thereon in respect of each day from, and including, the date such Erroneous Payment (or portion thereof) was received by such Payment Recipient to, and including, the date on which such amount is repaid to the Administrative Agent in same day funds at the *greater of* the Federal Funds Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect. A notice delivered from the Administrative Agent to any Payment Recipient pursuant to this clause (a) shall be conclusive and binding, absent manifest error.

(b) Without limiting anything in the immediately foregoing clause (a), each Lender, the Issuing Bank, each other holder(s) of the Obligations party hereto, and each other Person party hereto who has received funds on behalf of a Lender, the Issuing Bank, or any other holder(s) of the Obligations hereby further agrees that, if it receives a payment, prepayment or repayment (whether received as a payment, prepayment or repayment of principal, interest, fees, distribution or otherwise) from the Administrative Agent (or any of its Affiliates) (I) that is in a different amount than, or on a different date from, that specified in a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates) with respect to such payment, prepayment or repayment, (II) that was *not* preceded or accompanied by a notice of payment, prepayment or repayment sent by the Administrative Agent (or any of its Affiliates), or (III) that such Lender, Issuing Bank, other holder of the Obligations, or other such recipient(s) otherwise becomes aware was transmitted, or received, in error or by mistake (in whole or in part), in each case of the foregoing:

(i) (A) in any such case of the immediately preceding clauses (b)(I) or (b)(II), an error shall be presumed to have been made (absent written confirmation from the Administrative Agent to the contrary), or (B) in any such case of the immediately preceding clause (b)(III), an error has been made, in each case of the foregoing clauses (b)(i)(A) and (b)(i)(B), with respect to such payment, prepayment or repayment; and

(ii) such Lender, Issuing Bank, other holder(s) of the Obligations or other Payment Recipient(s) shall (and shall cause any other recipient that receives funds on its respective behalf to) promptly (and, in any event, within one (1) Business Day of its obtaining knowledge of such error) notify the Administrative Agent of its receipt of such payment, prepayment or repayment, the details thereof (in reasonable detail) and that it is so notifying the Administrative Agent pursuant to this clause (b).

(c) Each Lender, the Issuing Bank and each other holder of the Obligations party hereto hereby authorizes the Administrative Agent to set off, net and apply any and all amounts at any time owing to such Lender, the Issuing Bank or such other holder of the Obligations under any Credit Document, or otherwise payable or distributable by the Administrative Agent to such Lender, the Issuing Bank and/or such other holder(s) of the Obligations from any source, against any amount due to the Administrative Agent under immediately preceding clause (a) or under the indemnification provisions of this Agreement.

(d) In the event that an Erroneous Payment (or portion thereof) is *not* recovered by the Administrative Agent for any reason, after demand therefor by the Administrative Agent in accordance with foregoing clause (a), from any Lender, the Issuing Bank, any other holder(s) of the Obligations, or any other Payment Recipient(s) that has received such Erroneous Payment (or portion thereof) (and/or from any Payment Recipient who received such Erroneous Payment (or portion thereof) on the respective behalf of any of the foregoing) (such unrecovered amount, an "Erroneous Payment Return Deficiency"), upon the Administrative Agent's notice to such Lender, the Issuing Bank, such other holder(s) of the Obligations or such other Payment Recipient(s), as the case may be, at any time: (i) such Lender, the Issuing Bank, such other holder(s) of the Obligations or such other Payment Recipient(s), as the case may be, shall be deemed to have assigned (to the extent it has any such Loans) its Loans (but *not* its Commitments) of the relevant Class with respect to which such Erroneous Payment was made (the "Erroneous Payment Impacted Class") in an amount equal to the Erroneous Payment Return Deficiency (or such lesser amount as the Administrative Agent may specify) (such assignment of such Loans (but *not* Commitments) of the Erroneous Payment Impacted Class, the "Erroneous Payment Deficiency Assignment") at par *plus* any accrued and unpaid interest (with the assignment fee to be waived by the Administrative Agent in such instance), and such Lender, the Issuing Bank, such other holder(s) of the Obligations or such other Payment Recipient(s), as the case may be, is hereby (together with the Borrowers) deemed to have executed and delivered an Assignment Agreement (or, to the extent applicable, an agreement incorporating an Assignment Agreement by reference pursuant to Debtdomain, Intralinks, Syndtrak, or a substantially similar electronic transmission system as to which the Administrative Agent and such parties are participants) with respect to such Erroneous Payment Deficiency Assignment, and further, such Lender, the Issuing Bank, such other holder(s) of the Obligations or such other Payment Recipient(s), as the case may be, shall deliver any Notes evidencing any such Loans to the Administrative Agent; (ii) the Administrative Agent, as the assignee Lender, shall be deemed to acquire the Erroneous Payment Deficiency Assignment; (iii) upon such deemed acquisition, the Administrative Agent, as the assignee Lender, shall become a Lender, the Issuing Bank or such other type of holder of the Obligations, as the case may be, hereunder with respect to such Erroneous Payment Deficiency Assignment, and further, the assigning Lender, the Issuing Bank, or such other holder(s) of the Obligations shall cease to be a Lender, the Issuing Bank, or such other holder(s) of the Obligations, as the case may be, hereunder with respect to such Erroneous Payment Deficiency Assignment, but *excluding*, for the avoidance of doubt, such Person's obligations under the indemnification provisions of this Agreement and its applicable Commitments, which shall survive as to such assigning Lender, Issuing Bank or other holder(s) of the Obligations; and (iv) the Administrative Agent may reflect in the Register its ownership interest in the Loans subject to the Erroneous Payment Deficiency Assignment. The Administrative Agent may, in its discretion, sell any Loans acquired pursuant to an Erroneous Payment Deficiency Assignment and, upon receipt of the proceeds of such sale, the Erroneous Payment Return Deficiency owing by the applicable Lender, Issuing Bank, other holder(s) of the Obligations or other such Payment Recipient(s), as the case may be, shall be *reduced* by the net proceeds of the sale of such Loan (or portion thereof), and the Administrative Agent shall retain all other rights, remedies and claims against such Lender, the Issuing Bank, such other holder(s) of the Obligations or such other Payment Recipient(s), as the case may be (and/or against any recipient that receives funds on the respective behalf of any of the foregoing). For the avoidance of doubt, no Erroneous Payment Deficiency Assignment will reduce the Commitments of any Lender or the Issuing Bank, and such Commitments shall remain available in accordance with the terms of this Agreement. In addition, each party hereto agrees that, except to the extent that the Administrative Agent has sold a Loan (or portion thereof) acquired pursuant to an Erroneous Payment Deficiency Assignment, and irrespective of whether the Administrative Agent may be equitably subrogated, the Administrative Agent shall be contractually subrogated to all of the rights and interests of the applicable Lender, Issuing Bank, or other holder(s) of the Obligations under the Credit Documents with respect to each Erroneous Payment Return Deficiency (the "Erroneous Payment Subrogation Rights").

(e) The parties hereto agree that an Erroneous Payment shall *not* pay, prepay, repay, discharge, or otherwise satisfy any Obligations owed by the Borrower or any other Credit Party, except, in each case, to the extent that such Erroneous Payment is, and *solely* with respect to the amount of such Erroneous Payment that is, comprised of funds received by the Administrative Agent from the Borrower or any other Credit Party for the purpose of making such Erroneous Payment.

(f) To the extent permitted by Applicable Law, no Payment Recipient shall assert any right or claim to an Erroneous Payment, and each party hereto, to the extent constituting a Payment Recipient, hereby waives, and is deemed to waive, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Erroneous Payment received, including, without limitation, waiver of any defense based on "discharge for value" or any similar doctrine.

(g) Each party's obligations, agreements and waivers under this Section 10.12 shall survive the resignation or replacement of the Administrative Agent, any transfer of rights or obligations by, or the replacement of, any Lender, the Issuing Bank or any other holder(s) of the Obligations, the termination of any or all of the Commitments, and/or the repayment, satisfaction or discharge of any or all of the Obligations (or any portion thereof) under any Credit Document.

Section 11. MISCELLANEOUS

Section 11.1 Notices; Effectiveness; Electronic Communications.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in subsection (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by telecopier or electronic mail as follows, and all notices and other communications expressly permitted hereunder to be given by telephone shall be made to the applicable telephone number, as follows:

(i) if to the Administrative Agent, any Borrower or any other Credit Party, to the address, telecopier number, electronic mail address or telephone number specified in Appendix B:

(ii) if to any Lender, any Issuing Bank or Swingline Lender, to the address, telecopier number, electronic mail address or telephone number in its Administrative Questionnaire on file with the Administrative Agent.

Notices and other communications sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received; notices and other communications sent by telecopier shall be deemed to have been given when sent (except that, if not given during normal business hours for the recipient, shall be deemed to have been given at the opening of business on the next business day for the recipient). Notices and other communications delivered through electronic communications to the extent provided in subsection (b) below, shall be effective as provided in such subsection (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Issuing Banks hereunder may be delivered or furnished by electronic communication (including e-mail and Internet or intranet websites) pursuant to procedures approved by the Administrative Agent, provided that the foregoing shall not apply to notices to any Lender or any Issuing Bank pursuant to Section 2 if such Lender or such Issuing Bank, as applicable, has notified the Administrative Agent and the Borrowers that it is incapable of receiving notices under such Section by electronic communication. The Administrative Agent or any Credit Party may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it, provided that approval of such procedures may be limited to particular notices or communications.

Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor, provided that, with respect to clauses (i) and (ii) above, if such notice or other communication is not sent during the normal business hours of the recipient, such notice or communication shall be deemed to have been sent at the opening of business on the next business day for the recipient

(c) Change of Address, Etc. Any party hereto may change its address or telecopier number for notices and other communications hereunder by notice to the other parties hereto.

(d) Platform

(i) Each Credit Party agrees that the Administrative Agent may, but shall not be obligated to, make the Communications (as defined below) available to the Issuing Banks and the other Lenders by posting the Communications on Debt Domain, Intralinks, Syndtrak or a substantially similar electronic transmission system (the "Platform").

(ii) The Platform is provided "as is" and "as available." The Agent Parties (as defined below) do not warrant the adequacy of the Platform and expressly disclaim liability for errors or omissions in the Communications. No warranty of any kind, express, implied or statutory, including, without limitation, any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects, is made by any Agent Party in connection with the Communications or the Platform. In no event shall the Administrative Agent or any of its Related Parties (collectively, the "Agent Parties") have any liability to the Borrowers or the other Credit Parties, any Lender or any other Person or entity for damages of any kind, including, without limitation, direct or indirect, special, incidental or consequential damages, losses or expenses (whether in tort, contract or otherwise) arising out of any Borrower's, any other Credit Party's or the Administrative Agent's transmission of communications through the Platform. "Communications" means, collectively, any notice, demand, communication, information, document or other material provided by or on behalf of any Credit Party pursuant to any Credit Document or the transactions contemplated therein which is distributed to the Administrative Agent, any Lender or any Issuing Bank by means of electronic communications pursuant to this Section, including through the Platform.

Section 11.2 Expenses; Indemnity; Damage Waiver.

(a) Costs and Expenses. The Credit Parties shall pay (i) all reasonable out-of-pocket expenses incurred by the Administrative Agent and its Affiliates (including the reasonable out-of-pocket fees, charges and disbursements of counsel for the Administrative Agent) in connection with the syndication of the credit facilities provided for herein, the preparation, negotiation, execution, delivery and administration of this Agreement and the other Credit Documents or any amendments, modifications or waivers of the provisions hereof or thereof (whether or not the transactions contemplated hereby or thereby shall be consummated), (ii) all reasonable out-of-pocket expenses incurred by any Issuing Bank in connection with the issuance, amendment, renewal or extension of any Letter of Credit or any demand for payment thereunder and (iii) all reasonable out-of-pocket expenses incurred by the Administrative Agent, any Lender or any Issuing Bank (including the reasonable out-of-pocket fees, charges and disbursements of any counsel for the Administrative Agent, any Lender or any Issuing Bank) in connection with the enforcement or protection of its rights (A) in connection with this Agreement and the other Credit Documents, including its rights under this Section, or (B) in connection with the Loans made or Letters of Credit issued hereunder, including all such out-of-pocket expenses incurred during any workout, restructuring or negotiations in respect of such Loans or Letters of Credit.

(b) Indemnification by the Credit Parties. The Credit Parties shall indemnify the Administrative Agent (and any sub-agent thereof), the Collateral Agent (and any sub-agent thereof), each Lender and each Issuing Bank, and each Related Party of any of the foregoing Persons (each such Person being called an "Indemnitee") against, and hold each Indemnitee harmless from, any and all losses, claims, damages, liabilities and related expenses (including the reasonable out-of-pocket fees, charges and disbursements of any counsel for any Indemnitee), incurred by any Indemnitee or asserted against any Indemnitee by any Person (including any Borrower or any other Credit Party) other than such Indemnitee or its Related Parties arising out of, in connection with, or as a result of (i) the execution or delivery of this Agreement, any other Credit Document or any agreement or instrument contemplated hereby or thereby, the performance by the parties hereto of their respective obligations hereunder or thereunder or the consummation of the transactions contemplated hereby or thereby, (ii) any Loan or Letter of Credit or the use or proposed use of the proceeds therefrom (including any refusal by any Issuing Bank to honor a demand for payment under a Letter of Credit if the documents presented in connection with such demand do not strictly comply with the terms of such Letter of Credit), (iii) any actual or alleged presence or release of Hazardous Materials on or from any property owned or operated by any Borrower or any other Credit Party, or any Environmental Liability related in any way to any Borrower or any of its Subsidiaries, or (iv) any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by any Borrower or any of its Subsidiaries, and regardless of whether any Indemnitee is a party thereto, provided that such indemnity shall not, as to any Indemnitee, be available to the extent that such losses, claims, damages, liabilities or related expenses (x) are determined by a court of competent jurisdiction by final and nonappealable judgment to have resulted from the gross negligence or willful misconduct of such Indemnitee or (y) result from a claim brought by any Borrower or any Credit Party against an Indemnitee for breach in bad faith of such Indemnitee's obligations hereunder or under any other Credit Document, if such Borrower or such Credit Party has obtained a final and nonappealable judgment in its favor on such claim as determined by a court of competent jurisdiction. This Section 11.2(b) shall not apply with respect to Taxes other than any Taxes that represent losses, claims, damages, etc. arising from any non-Tax claim.

(c) Reimbursement by Lenders. To the extent that the Credit Parties for any reason fail to indefeasibly pay any amount required under subsection (a) or (b) of this Section to be paid by it to the Administrative Agent (or any sub-agent thereof), the Collateral Agent (or any sub-agent thereof), any Issuing Bank or any Related Party of any of the foregoing, each Lender severally agrees to pay to the Administrative Agent (or any such sub-agent), the Collateral Agent (or any such sub-agent), the applicable Issuing Bank or such Related Party, as the case may be, such Lender's pro rata share (in each case, determined as of the time that the applicable unreimbursed expense or indemnity payment is sought) of such unpaid amount, provided that the unreimbursed expense or indemnified loss, claim, damage, liability or related expense, as the case may be, was incurred by or asserted against the Administrative Agent (or any such sub-agent) or such Issuing Bank in its capacity as such, or against any Related Party of any of the foregoing acting for the Administrative Agent (or any such sub-agent) or such Issuing Bank in connection with such capacity. The obligations of the Lenders under this subsection (c) are subject to the provisions of this Agreement that provide that their obligations are several in nature, and not joint and several.

(d) Waiver of Consequential Damages, Etc. To the fullest extent permitted by Applicable Law, none of the Credit Parties shall assert, and each hereby waives, any claim against any Indemnitee, on any theory of liability, for special, indirect, consequential or punitive damages (as opposed to direct or actual damages) arising out of, in connection with, or as a result of, this Agreement, any other Credit Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, any Loan or Letter of Credit or the use of the proceeds thereof. No Indemnitee referred to in subsection (b) above shall be liable for any damages arising from the use by unintended recipients of any information or other materials distributed by such Indemnitee through telecommunications, electronic or other information transmission systems in connection with this Agreement or the other Credit Documents or the transactions contemplated hereby or thereby.

(e) Payments. All amounts due under this Section shall be payable promptly, but in any event within ten (10) Business Days after written demand therefor (including delivery of copies of applicable invoices).

(f) Survival. The provisions of this Section shall survive resignation or replacement of the Administrative Agent, Collateral Agent, any Issuing Bank, the Swingline Lender or any Lender, termination of the commitments hereunder and repayment, satisfaction and discharge of the loans and obligations hereunder.

Section 11.3 Set-Off. If an Event of Default shall have occurred and be continuing, each Lender, each Issuing Bank, and each of their respective Affiliates is hereby authorized at any time and from time to time, to the fullest extent permitted by Applicable Law, to set off and apply any and all deposits (general or special, time or demand, provisional or final, in whatever currency) at any time held and other obligations (in whatever currency) at any time owing by such Lender, such Issuing Bank or any such Affiliate to or for the credit or the account of any Borrower or any other Credit Party against any and all of the obligations of such Borrower or such Credit Party now or hereafter existing under this Agreement or any other Credit Document to such Lender, such Issuing Bank or their respective Affiliates, irrespective of whether or not such Lender, such Issuing Bank or such Affiliate shall have made any demand under this Agreement or any other Credit Document and although such obligations of such Borrower or such Credit Party may be contingent or unmatured or are owed to a branch, office or Affiliate of such Lender or such Issuing Bank different from the branch or office holding such deposit or obligated on such indebtedness; provided that in the event that any Defaulting Lender shall exercise any such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.16 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Issuing Banks, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff. The rights of each Lender, each Issuing Bank and their respective Affiliates under this Section are in addition to other rights and remedies (including other rights of setoff) that such Lender, such Issuing Bank or their respective Affiliates may have. Each of the Lenders and the Issuing Banks agrees to notify the Borrowers and the Administrative Agent promptly after any such setoff and application, provided that the failure to give such notice shall not affect the validity of such setoff and application.

Section 11.4 Amendments and Waivers.

(a) Required Lenders' Consent. Subject to Section 11.4(b) and Section 11.4(c), no amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Credit Party therefrom, shall in any event be effective without the written concurrence of the Administrative Agent and the Required Lenders; provided that (i) the Administrative Agent may, with the consent of the Borrowers only, amend, modify or supplement this Agreement to cure any ambiguity, omission, defect or inconsistency, so long as such amendment, modification or supplement does not adversely affect the rights of any Lender or the Issuing Bank, (ii) each of the Fee Letter and any Auto Borrow Agreement may be amended, or rights or privileges thereunder waived, in a writing executed only by the parties thereto, (iii) no Defaulting Lender shall have any right to approve or disapprove any amendment, waiver or consent hereunder, except that the Commitments, Loans and/or Letter of Credit Obligations of such Lender may not be increased or extended without the consent of such Lender, (iv) each Lender is entitled to vote as such Lender sees fit on any bankruptcy reorganization plan that affects the Loans, and each Lender acknowledges that the provisions of Section 1126(c) of the Bankruptcy Code of the United States supersedes the unanimous consent provisions set forth herein and (v) the Required Lenders shall determine whether or not to allow any Credit Party to use cash collateral in the context of a bankruptcy or insolvency proceeding and such determination shall be binding on all of the Lenders.

(b) Affected Lenders' Consent. Without the written consent of each Lender (other than a Defaulting Lender except as provided in clause (a)(iii) above) that would be affected thereby, no amendment, modification, termination, or consent shall be effective if the effect thereof would:

(i) extend the Revolving Commitment Termination Date;

(ii) waive, reduce or postpone any scheduled repayment (but not prepayment) or alter the required application of any prepayment pursuant to Section 2.12 or the application of funds pursuant to Section 9.3, as applicable;

(iii) extend the stated expiration date of any Letter of Credit beyond the Revolving Commitment Termination Date;

(iv) reduce the principal of or the rate of interest on any Loan (other than any waiver of the imposition of the Default Rate pursuant to Section 2.9) or any fee or premium payable hereunder; provided, however, that only the consent of the Required Lenders shall be necessary (A) to amend the definition of "Default Rate" or to waive any obligation of the Borrowers to pay interest at the Default Rate or (B) to amend any financial covenant hereunder (or any defined term used therein) even if the effect of such amendment would be to reduce the rate of interest on any Loan or to reduce any fee payable hereunder;

(v) extend the time for payment of any such interest or fees;

(vi) reduce the principal amount of any Loan or any reimbursement obligation in respect of any Letter of Credit;

(vii) amend, modify, terminate or waive any provision of this Section 11.4(b) or Section 11.4(c) or any other provision of this Agreement that expressly provides that the consent of all Lenders is required;

(viii) change the percentage of the outstanding principal amount of Loans that is required for the Lenders or any of them to take any action hereunder or amend the definition of "Required Lenders";

(ix) release all or substantially all of the Collateral or all or substantially all of the Guarantors from their obligations hereunder, in each case, except as expressly provided in the Credit Documents;

(x) consent to the assignment or transfer by any Borrower of any of its rights and obligations under any Credit Document (except pursuant to a transaction permitted hereunder);

(xi) subordinate the Obligations to any other Indebtedness or other obligation; or

(xii) subordinate, or have the effect of subordinating, the Liens granted to the Collateral Agent, for the benefit of the holders of the Obligations, to Liens securing any other Indebtedness.

(c) Other Consents. No amendment, modification, termination or waiver of any provision of the Credit Documents, or consent to any departure by any Borrower or any other Credit Party therefrom, shall:

(i) increase any Revolving Commitment of any Lender over the amount thereof then in effect without the consent of such Lender; provided, no amendment, modification or waiver of any condition precedent, covenant, Default or Event of Default shall constitute an increase in any Revolving Commitment of any Lender;

(ii) amend, modify, terminate or waive any provision hereof relating to the Swingline Sublimit or the Swingline Loans without the consent of the Swingline Lender;

(iii) amend, modify, terminate or waive any obligation of Lenders relating to the purchase of participations in Letters of Credit as provided in Section 2.3(e) without the written consent of the Administrative Agent and of each Issuing Bank; or

(iv) amend, modify, terminate or waive any provision of this Section 11 as the same applies to any Agent, or any other provision hereof as the same applies to the rights or obligations of any Agent, in each case without the consent of such Agent.

Notwithstanding any of the foregoing to the contrary, (v) the consent of the Borrowers and the other Credit Parties shall not be required for any amendment, modification or waiver of the provisions of Section 10 (other than the provisions of Sections 10.6 or 10.10) so long as such amendment is not adverse to the interests of the Borrowers and the other Credit Parties; (w) the Credit Parties, the Administrative Agent and/or the Collateral Agent, without the consent of any Lender, may enter into any amendment, modification or waiver of any Credit Document, or enter into any new agreement or instrument, to effect the granting, perfection, protection, expansion or enhancement of any security interest in any Collateral or additional property to become Collateral for the benefit of the holders of the Obligations, or as required by local law to give effect to, or protect any security interest for the benefit of the holders of the Obligations, in any property or so that the security interests therein comply with Applicable Law; (x) the Administrative Agent, the Collateral Agent and the Borrowers may amend, modify or supplement this Agreement or any other Credit Document to cure or correct administrative or technical errors or omissions or any ambiguity, mistake, defect, inconsistency, obvious error or to make any necessary or desirable administrative or technical change, and such amendment shall become effective without any further consent of any other party to such Credit Document so long as such amendment, modification or supplement does not adversely affect the rights of any Lender or any other holder of the Obligations in any material respect; (y) this Agreement may be amended and restated without the consent of any Lender (but with the consent of the Borrowers and the Administrative Agent) if, upon giving effect to such amendment and restatement, such Lender shall no longer be a party to this Agreement (as so amended and restated), the Commitments of such Lender shall have terminated, such Lender shall have no other commitment or other obligation hereunder and shall have been paid in full all principal, interest and other amounts owing to it or accrued for its account under this Agreement; and (z) this Agreement may be amended (A) to effect Conforming Changes in accordance with Section 2.7(h), and (B) in connection with the implementation of a Benchmark Replacement and/or any related Conforming Changes, all as provided in Section 3.1(g).

(d) Execution of Amendments, etc. The Administrative Agent may, but shall have no obligation to, with the concurrence of any Lender, execute amendments, modifications, waivers or consents on behalf of such Lender. Any waiver or consent shall be effective only in the specific instance and for the specific purpose for which it was given. No notice to or demand on any Credit Party in any case shall entitle any Credit Party to any other or further notice or demand in similar or other circumstances. Any amendment, modification, termination, waiver or consent effected in accordance with this Section 11.4 shall be binding upon the Administrative Agent, each Lender at the time outstanding, each future Lender and, if signed by a Borrower, on such Borrower.

Section 11.5 Successors and Assigns.

(a) Successors and Assigns Generally. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns permitted hereby, except that no Borrower nor any other Credit Party may assign or otherwise transfer any of its rights or obligations hereunder without the prior written consent of the Administrative Agent and each Lender, and no Lender may assign or otherwise transfer any of its rights or obligations hereunder except (i) to an assignee in accordance with the provisions of subsection (b) of this Section, (ii) by way of participation in accordance with the provisions of subsection (d) of this Section or (iii) by way of pledge or assignment of a security interest subject to the restrictions of subsection (e) of this Section (and any other attempted assignment or transfer by any party hereto shall be null and void). Nothing in this Agreement, expressed or implied, shall be construed to confer upon any Person (other than the parties hereto, their respective successors and assigns permitted hereby, Participants to the extent provided in subsection (d) of this Section and, to the extent expressly contemplated hereby, the Related Parties of each of the Administrative Agent and the Lenders) any legal or equitable right, remedy or claim under or by reason of this Agreement.

(b) Assignments by Lenders. Any Lender may at any time assign to one or more assignees all or a portion of its rights and obligations under this Agreement (including all or a portion of its Commitments, Loans and obligations hereunder at the time owing to it); provided that any such assignment shall be subject to the following conditions:

(i) Minimum Amounts.

(A) in the case of an assignment of the entire remaining amount of the assigning Lender's commitments and the loans at the time owing to it (in each case with respect to any credit facility) or contemporaneous assignments to Approved Funds that equal at least to the amounts specified in subsection (b)(i)(B) of this Section in the aggregate or in the case of an assignment to a Lender, an Affiliate of a Lender or an Approved Fund, no minimum amount need be assigned; and

(B) in any case not described in subsection (b)(i)(A) of this Section, the aggregate amount of the commitment (which for this purpose includes loans and obligations in respect thereof outstanding thereunder) or, if the commitment is not then in effect, the principal outstanding balance of the loans of the assigning Lender subject to each such assignment (determined as of the date the Assignment Agreement with respect to such assignment is delivered to the Administrative Agent or, if "Trade Date" is specified in the Assignment Agreement, as of the Trade Date) shall not be less than \$5,000,000, unless each of the Administrative Agent and, so long as no Event of Default shall have occurred and is continuing, the Borrowers otherwise consent (each such consent not to be unreasonably withheld or delayed).

(ii) Proportionate Amounts. Each partial assignment shall be made as an assignment of a proportionate part of all the assigning Lender's rights and obligations under this Agreement with respect to the Commitments and Loans assigned.

(iii) Required Consents. No consent shall be required for any assignment except to the extent required by subsection (b)(i)(B) of this Section and, in addition:

(A) the consent of the Borrowers (such consent not to be unreasonably withheld or delayed) shall be required unless (x) an Event of Default shall have occurred and is continuing at the time of such assignment or (y) such assignment is to a Lender, an Affiliate of a Lender or an Approved Fund; provided that the Borrowers shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within five (5) Business Days after having received written notice thereof;

(B) the consent of the Administrative Agent (such consent not to be unreasonably withheld or delayed) shall be required for assignments to a Person who is not a Lender, an Affiliate of a Lender or an Approved Fund;

(C) the consent of the Issuing Bank (such consent not to be unreasonably withheld or delayed) shall be required for any assignment; and

(D) the consent of the Swingline Lender (such consent not to be unreasonably withheld or delayed) shall be required for any assignment.

(iv) Assignment Agreement. The parties to each assignment shall execute and deliver to the Administrative Agent an Assignment Agreement, together with a processing and recordation fee in the amount of \$3,500 (payable by the assignor or the assignee, but not the Credit Parties), unless waived, in whole or in part by the Administrative Agent in its discretion. The assignee, if it is not a Lender, shall deliver to the Administrative Agent an Administrative Questionnaire.

(v) No Assignment to Certain Persons. No such assignment shall be made to (A) any Borrower or any of the Borrowers' Affiliates or Subsidiaries or (B) to any Defaulting Lender or any of its Subsidiaries, or any Person who, upon becoming a Lender hereunder, would constitute any of the foregoing Persons described in this clause (B).

(vi) No Assignment to Natural Persons. No such assignment shall be made to a natural person.

(vii) Certain Additional Payments. In connection with any assignment of rights and obligations of any Defaulting Lender hereunder, no such assignment shall be effective unless and until, in addition to the other conditions thereto set forth herein, the parties to the assignment shall make such additional payments to the Administrative Agent in an aggregate amount sufficient, upon distribution thereof as appropriate (which may be outright payment, purchases by the assignee of participations or subparticipations, or other compensating actions, including funding, with the consent of the Borrowers and the Administrative Agent, the applicable pro rata share of Loans previously requested but not funded by the Defaulting Lender, to each of which the applicable assignee and assignor hereby irrevocably consent), to (x) pay and satisfy in full all payment liabilities then owed by such Defaulting Lender to the Administrative Agent, each Issuing Bank, each Swingline Lender and each other Lender hereunder (and interest accrued thereon), and (y) acquire (and fund as appropriate) its full pro rata share of all Loans and participations in Letters of Credit and Swingline Loans in accordance with its Revolving Commitment Percentage. Notwithstanding the foregoing, in the event that any assignment of rights and obligations of any Defaulting Lender hereunder shall become effective under Applicable Law without compliance with the provisions of this paragraph, then the assignee of such interest shall be deemed to be a Defaulting Lender for all purposes of this Agreement until such compliance occurs.

Subject to acceptance and recording thereof by the Administrative Agent pursuant to subsection (c) of this Section, from and after the effective date specified in each Assignment Agreement, the assignee thereunder shall be a party to this Agreement and, to the extent of the interest assigned by such Assignment Agreement, have the rights and obligations of a Lender under this Agreement, and the assigning Lender thereunder shall, to the extent of the interest assigned by such Assignment Agreement, be released from its obligations under this Agreement (and, in the case of an Assignment Agreement covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a party hereto) but shall continue to be entitled to the benefits of Sections 2.16, 2.17 and 11.2 with respect to facts and circumstances occurring prior to the effective date of such assignment; provided, that except to the extent expressly agreed by the affected parties, no assignment by a Defaulting Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Each Borrower will execute and deliver on request, at its own expense, Notes to the assignee evidencing the interests taken by way of assignment hereunder. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this subsection shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with subsection (d) of this Section.

(c) Register. The Administrative Agent, acting solely for this purpose as an agent of the Borrowers, shall maintain at one of its offices in the United States, a copy of each Assignment Agreement delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Commitments of, and principal amounts (and stated interest) of the Loans and Obligations owing to, each Lender pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive absent manifest error, and the Borrowers, the Administrative Agent and the Lenders shall treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement. The Register shall be available for inspection by the Borrowers and any Lender, at any reasonable time and from time to time upon reasonable prior notice.

(d) Participations. Any Lender may at any time, without the consent of, or notice to, the Borrowers or the Administrative Agent, sell participations to any Person (other than a natural Person or the Borrowers or any of the Borrowers' Affiliates or Subsidiaries) (each, a "Participant") in all or a portion of such Lender's rights and/or obligations under this Agreement (including all or a portion of its Commitment and/or the Loans owing to it); provided that (i) such Lender's obligations under this Agreement shall remain unchanged, (ii) such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, and (iii) the Borrowers, the Administrative Agent, the Issuing Banks and Lenders shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under this Agreement. For the avoidance of doubt, each Lender shall be responsible for the indemnity under Section 11.2(c) with respect to any payments made by such Lender to its Participant(s).

Any agreement or instrument pursuant to which a Lender sells such a participation shall provide that such Lender shall retain the sole right to enforce this Agreement and to approve any amendment, modification or waiver of any provision of this Agreement; provided that such agreement or instrument may provide that such Lender will not, without the consent of the Participant, agree to any amendment, modification or waiver described in clauses (b) or (c) of Section 11.4 that affects such Participant. Each Borrower agrees that each Participant shall be entitled to the benefits of Sections 3.2, 3.1 and 3.3 (subject to the requirements and limitations therein, including the requirements under Section 3.3(f) (it being understood that the documentation required under Section 3.3(f) shall be delivered to the participating Lender)) to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to paragraph (b) of this Section; provided that such Participant (A) agrees to be subject to the provisions of Sections 2.17 and 3.4 as if it were an assignee under paragraph (b) of this Section; and (B) shall not be entitled to receive any greater payment under Sections 3.2 or 3.3, with respect to any participation, than its participating Lender would have been entitled to receive, except to the extent such entitlement to receive a greater payment results from a Change in Law that occurs after the Participant acquired the applicable participation. Each Lender that sells a participation agrees, at the Borrowers' request and expense, to use reasonable efforts to cooperate with the Borrowers to effectuate the provisions of Section 2.17 with respect to any Participant. To the extent permitted by law, each Participant also shall be entitled to the benefits of Section 11.3 as though it were a Lender; provided that such Participant agrees to be subject to Section 2.14 as though it were a Lender. Each Lender that sells a participation shall, acting solely for this purpose as an agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in the Loans or other obligations under the Credit Documents (the "Participant Register"); provided that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any commitments, loans, letters of credit or its other obligations under any Credit Document) to any Person except to the extent that such disclosure is necessary to establish that such commitment, loan, letter of credit or other obligation is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

(e) Certain Pledges. Any Lender may at any time pledge or assign a security interest in all or any portion of its rights under this Agreement, or any promissory notes evidencing its interests hereunder, to secure obligations of such Lender, including any pledge or assignment to secure obligations to a Federal Reserve Bank, and this Section 11.5 shall not apply to any such pledge or assignment of a security interest; provided that no such pledge or assignment shall release such Lender from any of its obligations hereunder or substitute any such pledgee or assignee for such Lender as a party hereto.

Section 11.6 Independence of Covenants. All covenants hereunder shall be given independent effect so that if a particular action or condition is not permitted by any of such covenants, the fact that it would be permitted by an exception to, or would otherwise be within the limitations of, another covenant shall not avoid the occurrence of a Default or an Event of Default if such action is taken or condition exists.

Section 11.7 Survival of Representations, Warranties and Agreements. All representations, warranties and agreements made herein shall survive the execution and delivery hereof and the making of any Credit Extension. Notwithstanding anything herein or implied by law to the contrary, the agreements of each Credit Party set forth in Section 3.1(c), Section 3.2, Section 3.3, Section 11.2, Section 11.3, and Section 11.10 and the agreements of the Lenders and the Agents set forth in Section 2.14, Section 10.3 and Section 11.2(c) shall survive the payment of the Loans, the cancellation, expiration or cash collateralization of the Letters of Credit, and the termination hereof.

Section 11.8 No Waiver; Remedies Cumulative. No failure or delay on the part of any Credit Party, any Agent or any Lender in the exercise of any power, right or privilege hereunder or under any other Credit Document shall impair such power, right or privilege or be construed to be a waiver of any default or acquiescence therein, nor shall any single or partial exercise of any such power, right or privilege preclude other or further exercise thereof or of any other power, right or privilege. The rights, powers and remedies given to each Credit Party, each Agent, each Lender hereby are cumulative and shall be in addition to and independent of all rights, powers and remedies existing by virtue of any statute or rule of law or in any of the other Credit Documents, any Swap Agreements or any Treasury Management Agreements. Any forbearance or failure to exercise, and any delay in exercising, any right, power or remedy hereunder shall not impair any such right, power or remedy or be construed to be a waiver thereof, nor shall it preclude the further exercise of any such right, power or remedy.

Section 11.9 Marshalling: Payments Set Aside. Neither any Agent nor any Lender shall be under any obligation to marshal any assets in favor of any Credit Party or any other Person or against or in payment of any or all of the Obligations. To the extent that any Credit Party makes a payment or payments to the Administrative Agent, the Issuing Banks, the Swingline Lender or the Lenders (or to the Administrative Agent, on behalf of Lenders), or the Administrative Agent, the Collateral Agent, the Issuing Banks or the Lenders enforce any security interests or exercise their rights of setoff, and such payment or payments or the proceeds of such enforcement or setoff or any part thereof are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any Debtor Relief Law, any other state or federal law, common law or any equitable cause, then, to the extent of such recovery, the obligation or part thereof originally intended to be satisfied, and all Liens, rights and remedies therefor or related thereto, shall be revived and continued in full force and effect as if such payment or payments had not been made or such enforcement or setoff had not occurred.

Section 11.10 Severability. In case any provision in or obligation hereunder or any Note or other Credit Document shall be invalid, illegal or unenforceable in any jurisdiction, the validity, legality and enforceability of the remaining provisions or obligations, or of such provision or obligation in any other jurisdiction, shall not in any way be affected or impaired thereby.

Section 11.11 Obligations Several; Independent Nature of Lenders' Rights. The obligations of the Lenders hereunder are several and no Lender shall be responsible for the obligations or Revolving Commitment of any other Lender hereunder. Nothing contained herein or in any other Credit Document, and no action taken by the Lenders pursuant hereto or thereto, shall be deemed to constitute the Lenders as a partnership, an association, a joint venture or any other kind of entity. The amounts payable at any time hereunder to each Lender shall be a separate and independent debt, and, subject to Section 10.9, each Lender shall be entitled to protect and enforce its rights arising under this Agreement and the other Credit Documents and it shall not be necessary for any other Lender to be joined as an additional party in any proceeding for such purpose.

Section 11.12 Headings. Section headings herein are included herein for convenience of reference only and shall not constitute a part hereof for any other purpose or be given any substantive effect.

Section 11.13 Applicable Laws.

(a) Governing Law. This Agreement shall be governed by, and construed in accordance with, the law of the State of New York.

(b) Submission to Jurisdiction. Each party hereto irrevocably and unconditionally submits, for itself and its property, to the nonexclusive jurisdiction of the courts of the State of New York sitting in New York County and of the United States District Court of the Southern District of New York, and any appellate court from any thereof, in any action or proceeding arising out of or relating to this Agreement or any other Credit Document, or for recognition or enforcement of any judgment, and each of the parties hereto irrevocably and unconditionally agrees that all claims in respect of any such action or proceeding may be heard and determined in such New York State court or, to the fullest extent permitted by Applicable Law, in such Federal court. Each of the parties hereto agrees that a final judgment in any such action or proceeding shall be conclusive and may be enforced in other jurisdictions by suit on the judgment or in any other manner provided by law. Nothing in this Agreement or in any other Credit Document shall affect any right that any party may otherwise have to bring any action or proceeding relating to this Agreement or any other Credit Document against any Credit Party or its properties in the courts of any jurisdiction.

(c) Waiver of Venue. Each party hereto irrevocably and unconditionally waives, to the fullest extent permitted by Applicable Law, any objection that it may now or hereafter have to the laying of venue of any action or proceeding arising out of or relating to this Agreement or any other Credit Document in any court referred to in subsection (b) of this Section. Each of the parties hereto hereby irrevocably waives, to the fullest extent permitted by Applicable Law, the defense of an inconvenient forum to the maintenance of such action or proceeding in any such court.

(d) Service of Process. Each party hereto irrevocably consents to service of process in the manner provided for notices in Section 11.1. Nothing in this Agreement will affect the right of any party hereto to serve process in any other manner permitted by Applicable Law.

Section 11.14 WAIVER OF JURY TRIAL. EACH PARTY HERETO HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY RIGHT IT MAY HAVE TO A TRIAL BY JURY IN ANY LEGAL PROCEEDING DIRECTLY OR INDIRECTLY ARISING OUT OF OR RELATING TO THIS AGREEMENT OR ANY OTHER CREDIT DOCUMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY (WHETHER BASED ON CONTRACT, TORT OR ANY OTHER THEORY). EACH PARTY HERETO (A) CERTIFIES THAT NO REPRESENTATIVE, AGENT OR ATTORNEY OF ANY OTHER PERSON HAS REPRESENTED, EXPRESSLY OR OTHERWISE, THAT SUCH OTHER PERSON WOULD NOT, IN THE EVENT OF LITIGATION, SEEK TO ENFORCE THE FOREGOING WAIVER AND (B) ACKNOWLEDGES THAT IT AND THE OTHER PARTIES HERETO HAVE BEEN INDUCED TO ENTER INTO THIS AGREEMENT AND THE OTHER CREDIT DOCUMENTS BY, AMONG OTHER THINGS, THE MUTUAL WAIVERS AND CERTIFICATIONS IN THIS SECTION.

Section 11.15 Confidentiality. Each of the Administrative Agent, the Collateral Agent, the Issuing Banks and the Lenders agrees to maintain the confidentiality of the Information (as defined below), except that Information may be disclosed (a) to its Affiliates and to its Related Parties (it being understood that the Persons to whom such disclosure is made will be informed of the confidential nature of such Information and instructed to keep such Information confidential), (b) to the extent required or requested by any regulatory authority purporting to have jurisdiction over such Person or its Related Parties (including any self-regulatory authority, such as the National Association of Insurance Commissioners), (c) to the extent required by Applicable Laws or regulations or by any subpoena or similar legal process, (d) to any other party hereto, (e) in connection with the exercise of any remedies hereunder or under any other Credit Document or any action or proceeding relating to this Agreement or any other Credit Document or the enforcement of rights hereunder or thereunder, (f) subject to an agreement containing provisions substantially the same as those of this Section, to (i) any assignee of or Participant in, or any prospective assignee of or Participant in (including, for purposes hereof, any new lenders invited to join hereunder on an increase in the Loans and Commitments hereunder, whether by exercise of an accordion, by way of amendment or otherwise), any of its rights or obligations under this Agreement or (ii) any actual or prospective party (or its Related Parties) to any swap, derivative or other transaction under which payments are to be made by reference to any Borrower or its obligations, this Agreement or payments hereunder, (g) on a confidential basis to (i) any rating agency in connection with rating any Borrower or its Subsidiaries or the credit facilities provided for herein, or (ii) the CUSIP Service Bureau or any similar agency in connection with the issuance and monitoring of CUSIP numbers or other market identifiers with respect to the credit facilities provided for herein, (h) with the consent of the Borrowers, (i) to the extent such Information (x) becomes publicly available other than as a result of a breach of this Section or (y) becomes available to the Administrative Agent, any Lender, any Issuing Bank or any of their respective Affiliates on a nonconfidential basis from a source other than the Borrowers or (j) for purposes of establishing a "due diligence" defense.

For purposes of this Section, "Information" means all information received from any Borrower or any of its Subsidiaries relating to any Borrower or any of its Subsidiaries or any of their respective businesses, other than any such information that is available to the Administrative Agent, any Lender or any Issuing Bank on a nonconfidential basis prior to disclosure by any Borrower or any of its Subsidiaries. Any Person required to maintain the confidentiality of Information as provided in this Section shall be considered to have complied with its obligation to do so if such Person has exercised the same degree of care to maintain the confidentiality of such Information as such Person would accord to its own confidential information.

Each of the Administrative Agent, the Collateral Agent, the Issuing Banks and the Lenders acknowledges that (i) the Information may include material non-public information concerning any Borrower or any Subsidiary, as the case may be, (ii) it has developed compliance procedures regarding the use of material non-public information and (iii) it will handle such material non-public information in accordance with Applicable Law, including United States federal and state securities laws.

The Credit Parties consent to the use of information related to the arrangement of the Loans by each of the Lenders and their Affiliates in connection with marketing, press releases or other transactional announcements or updates provided to investor or trade publications, including, without limitation, the placement of "tombstone" advertisements in publications of its choice at its own expense; provided, however, that to the extent that such marketing, press releases or other transactional announcements include material information about the Credit Parties, their Subsidiaries and/or their businesses other than the names and logos of the Credit Parties and their Subsidiaries and the amount, type and closing date of the Loans established hereby, each such Lender or Affiliate of a Lender shall obtain prior written consent of the Borrowers (which approval shall not be unreasonably withheld).

Section 11.16 Usury Savings Clause. Notwithstanding any other provision herein, the aggregate interest rate charged or agreed to be paid with respect to any of the Obligations, including all charges or fees in connection therewith deemed in the nature of interest under Applicable Laws shall not exceed the Highest Lawful Rate. If the rate of interest (determined without regard to the preceding sentence) under this Agreement at any time exceeds the Highest Lawful Rate, the aggregate outstanding amount of the Loans made hereunder shall bear interest at the Highest Lawful Rate until the total amount of interest due hereunder equals the amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect. In addition, if when the Loans made hereunder are repaid in full the total interest due hereunder (taking into account the increase provided for above) is less than the total amount of interest which would have been due hereunder if the stated rates of interest set forth in this Agreement had at all times been in effect, then to the extent permitted by law, the Borrowers shall pay to the Administrative Agent an amount equal to the difference between the amount of interest paid and the amount of interest which would have been paid if the Highest Lawful Rate had at all times been in effect. Notwithstanding the foregoing, it is the intention of the Lenders and each of the Credit Parties to conform strictly to any applicable usury laws. Accordingly, if any Lender contracts for, charges, or receives any consideration which constitutes interest in excess of the Highest Lawful Rate, then any such excess shall be cancelled automatically and, if previously paid, shall at such Lender's option be applied to the aggregate outstanding amount of the Loans made hereunder or be refunded to each of the applicable Credit Parties. In determining whether the interest contracted for, charged, or received by the Administrative Agent or a Lender exceeds the Highest Lawful Rate, such Person may, to the extent permitted by Applicable Laws, (a) characterize any payment that is not principal as an expense, fee, or premium rather than interest, (b) exclude voluntary prepayments and the effects thereof, and (c) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest, throughout the contemplated term of the Obligations hereunder.

Section 11.17 Integration; Effectiveness. This Agreement and the other Credit Documents, and any separate letter agreements with respect to fees payable to the Administrative Agent, constitute the entire contract among the parties relating to the subject matter hereof and supersede any and all previous agreements and understandings, oral or written, relating to the subject matter hereof. Except as provided in Section 5, this Agreement shall become effective when it shall have been executed by the Administrative Agent and when the Administrative Agent shall have received counterparts hereof that, when taken together, bear the signatures of each of the other parties hereto.

Section 11.18 No Advisory of Fiduciary Relationship. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Credit Document), each of the Credit Parties acknowledges and agrees, and acknowledges its Affiliates' understanding, that: (a)(i) the arranging and other services regarding this Agreement provided by the Administrative Agent, are arm's-length commercial transactions between the Credit Parties, on the one hand, and the Administrative Agent, on the other hand, (ii) the Credit Parties have consulted their own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) each of the Credit Parties is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Credit Documents; (b)(i) the Administrative Agent is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not and will not be acting as an advisor, agent or fiduciary, for any Credit Party or any of their Affiliates or any other Person and (ii) the Administrative Agent does not have any obligation to any Credit Party or any of their Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Credit Documents; and (c) the Administrative Agent and its respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Credit Parties and their Affiliates, and the Administrative Agent does not have any obligation to disclose any of such interests to any Credit Party or its Affiliates. To the fullest extent permitted by law, each of the Credit Parties hereby waives and releases, any claims that it may have against the Administrative Agent with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby.

Section 11.19 Electronic Execution of Assignments and Other Documents. This Agreement, any Credit Document and any other Communication, including Communications required to be in writing, may be in the form of an Electronic Record and may be executed using Electronic Signatures. Each of the Credit Parties and each of the Administrative Agent, Collateral Agent and each Lender Party agrees that any Electronic Signature on or associated with any Communication shall be valid and binding on such Person to the same extent as a manual, original signature, and that any Communication entered into by Electronic Signature, will constitute the legal, valid and binding obligation of such Person enforceable against such Person in accordance with the terms thereof to the same extent as if a manually executed original signature was delivered. Any Communication may be executed in as many counterparts as necessary or convenient, including both paper and electronic counterparts, but all such counterparts are one and the same Communication. For the avoidance of doubt, the authorization under this paragraph may include, without limitation, use or acceptance of a manually signed paper Communication which has been converted into electronic form (such as scanned into PDF format), or an electronically signed Communication converted into another format, for transmission, delivery and/or retention. The Administrative Agent, Collateral Agent and each of the Lender Parties may, at its option, create one or more copies of any Communication in the form of an imaged Electronic Record ("Electronic Copy"), which shall be deemed created in the ordinary course of such Person's business, and destroy the original paper document. All Communications in the form of an Electronic Record, including an Electronic Copy, shall be considered an original for all purposes, and shall have the same legal effect, validity and enforceability as a paper record. Notwithstanding anything contained herein to the contrary, neither the Administrative Agent, the Collateral Agent, the Issuing Bank nor the Swingline Lender is under any obligation to accept an Electronic Signature in any form or in any format unless expressly agreed to by such Person pursuant to procedures approved by it; provided, further, without limiting the foregoing, (a) to the extent the Administrative Agent, Collateral Agent, Issuing Bank and/or Swingline Lender has agreed to accept such Electronic Signature, the Administrative Agent, Collateral Agent and each of the Lender Parties shall be entitled to rely on any such Electronic Signature purportedly given by or on behalf of any Credit Party and/or any Lender Party without further verification and (b) upon the request of the Administrative Agent, Collateral Agent or any Lender Party, any Electronic Signature shall be promptly followed by such manually executed counterpart.

Neither the Administrative Agent, Collateral Agent, Issuing Bank nor Swingline Lender shall be responsible for or have any duty to ascertain or inquire into the sufficiency, validity, enforceability, effectiveness or genuineness of any Credit Document or any other agreement, instrument or document (including, for the avoidance of doubt, in connection with the Administrative Agent's, Collateral Agent's, Issuing Bank's or Swingline Lender's reliance on any Electronic Signature transmitted by telecopy, emailed .pdf or any other electronic means). The Administrative Agent, Collateral Agent, Issuing Bank and Swingline Lender shall be entitled to rely on, and shall incur no liability under or in respect of this Agreement or any other Credit Document by acting upon, any Communication (which writing may be a fax, any electronic message, Internet or intranet website posting or other distribution or signed using an Electronic Signature) or any statement made to it orally or by telephone and believed by it to be genuine and signed or sent or otherwise authenticated (whether or not such Person in fact meets the requirements set forth in the Credit Documents for being the maker thereof).

Each of the Credit Parties and each Lender Party hereby waives (i) any argument, defense or right to contest the legal effect, validity or enforceability of this Agreement or any other Credit Document based solely on the lack of paper original copies of this Agreement or such other Credit Document, and (ii) waives any claim against the Administrative Agent, Collateral Agent, each Lender Party and each of their Related Parties for any liabilities arising solely from the Administrative Agent's, Collateral Agent's and/or any Lender Party's reliance on or use of Electronic Signatures, including any liabilities arising as a result of the failure of the Credit Parties to use any available security measures in connection with the execution, delivery or transmission of any Electronic Signature.

Section 11.20 USA PATRIOT Act. Each Lender subject to the Patriot Act hereby notifies each of the Credit Parties that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identifies each of the Credit Parties, which information includes the name and address of each of the Credit Parties and other information that will allow such Lender to identify each of the Credit Parties in accordance with the Patriot Act.

Section 11.21 Amendment and Restatement. The parties hereto agree that, on the Effective Date, the following transactions shall be deemed to occur automatically, without further action by any party hereto: (a) the Existing Credit Agreement shall be deemed to be amended and restated in its entirety pursuant to this Agreement, (b) the Collateral Documents (as defined in the Existing Credit Agreement and giving effect to any amendments thereto) and the Liens created thereunder in favor of Regions Bank as the Collateral Agent and/or the Administrative Agent and securing the Obligations (as defined in the Existing Credit Agreement), shall remain in full force and effect with respect to the Obligations and are hereby reaffirmed, (c) all Obligations (as defined in the Existing Credit Agreement) under the Existing Credit Agreement shall be deemed to be Obligations outstanding hereunder and this Agreement shall not constitute a novation of such Obligations or any of the rights, duties and obligations of the parties hereunder and (d) all references in the other Credit Documents to the Existing Credit Agreement shall be deemed to refer without further amendment to this Agreement. The parties hereto further acknowledge and agree that this Agreement constitutes an amendment to the Existing Credit Agreement made under and in accordance with the terms of Section 11.4 of the Existing Credit Agreement. All Revolving Loans (as defined in the Existing Credit Agreement) and Swingline Loans (as defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement immediately prior to the Effective Date shall, as of the Effective Date, be deemed to be a borrowing of Revolving Loans and Swingline Loans, respectively, in an equivalent amount and with the same Interest Period (to the extent applicable for SOFR Loans) hereunder as of the Effective Date and in connection therewith, the Administrative Agent, the Borrowers and the Lenders hereby acknowledge and agree that the Revolving Commitments (as defined in the Existing Credit Agreement) in effect under the Existing Credit Agreement immediately prior to the Effective Date have been reallocated to the Revolving Commitments set forth on Appendix A and the Revolving Loans (as defined in the Existing Credit Agreement) outstanding under the Existing Credit Agreement immediately prior to the Effective Date have been reallocated as necessary to give effect to the Revolving Commitments, and such reallocations shall be effective on the Effective Date and do not require any Assignment Agreement or any other action of any Person.

Section 11.22 Waiver of Notice Period and Breakage Costs. Each Lender that is a party to the Existing Credit Agreement waives (a) the notice period required under the Existing Credit Agreement for the submission of a notice of repayment of the loans outstanding under the Existing Credit Agreement on the Effective Date and (b) its right to receive compensation under Section 3.1(c) of the Existing Credit Agreement in connection with the repayment of the loans outstanding under the Existing Credit Agreement on the Effective Date.

Section 11.23 Acknowledgement and Consent to Bail-In of Affected Financial Institutions. Notwithstanding anything to the contrary in any Credit Document or in any other agreement, arrangement or understanding among any such parties, each party hereto acknowledges that any liability of any Lender that is an Affected Financial Institution arising under any Credit Document, to the extent such liability is unsecured, may be subject to the write-down and conversion powers of the applicable Resolution Authority and agrees and consents to, and acknowledges and agrees to be bound by:

- (a) the application of any Write-Down and Conversion Powers by the applicable Resolution Authority to any such liabilities arising hereunder which may be payable to it by any Lender that is an Affected Financial Institution; and
- (b) the effects of any Bail-In Action on any such liability, including, if applicable:
 - (i) a reduction in full or in part or cancellation of any such liability;
 - (ii) a conversion of all, or a portion of, such liability into shares or other instruments of ownership in such Affected Financial Institution, its parent undertaking, or a bridge institution that may be issued to it or otherwise conferred on it, and that such shares or other instruments of ownership will be accepted by it in lieu of any rights with respect to any such liability under this Agreement or any other Credit Document; or
 - (iii) the variation of the terms of such liability in connection with the exercise of the write-down and conversion powers of the applicable Resolution Authority.

Section 11.24 Acknowledgement Regarding Any Supported QFCs. To the extent that the Credit Documents provide support, through a guarantee or otherwise, for Swap Agreements or any other agreement or instrument that is a QFC (such support, "QFC Credit Support", and each such QFC, a "Supported QFC"), the parties acknowledge and agree as follows with respect to the resolution power of the Federal Deposit Insurance Corporation under the Federal Deposit Insurance Act and Title II of the Dodd-Frank Wall Street Reform and Consumer Protection Act (together with the regulations promulgated thereunder, the "U.S. Special Resolution Regimes") in respect of such Supported QFC and QFC Credit Support (with the provisions below applicable notwithstanding that the Credit Documents and any Supported QFC may in fact be stated to be governed by the laws of the State of New York and/or of the United States or any other state of the United States):

- (a) In the event a Covered Entity that is party to a Supported QFC (each, a "Covered Party") becomes subject to a proceeding under a U.S. Special Resolution Regime, the transfer of such Supported QFC and the benefit of such QFC Credit Support (and any interest and obligation in or under such Supported QFC and such QFC Credit Support, and any rights in property securing such Supported QFC or such QFC Credit Support) from such Covered Party will be effective to the same extent as the transfer would be effective under the U.S. Special Resolution Regime if the Supported QFC and such QFC Credit Support (and any such interest, obligation and rights in property) were governed by the laws of the United States or a state of the United States. In the event a Covered Party or a BHC Act Affiliate of a Covered Party becomes subject to a proceeding under a U.S. Special Resolution Regime, Default Rights under the Credit Documents that might otherwise apply to such Supported QFC or any QFC Credit Support that may be exercised against such Covered Party are permitted to be exercised to no greater extent than such Default Rights could be exercised under the U.S. Special Resolution Regime if the Supported QFC and the Credit Documents were governed by the laws of the United States or a state of the United States. Without limitation of the foregoing, it is understood and agreed that rights and remedies of the parties with respect to a Defaulting Lender shall in no event affect the rights of any Covered Party with respect to a Supported QFC or any QFC Credit Support.

(b) As used in this Section 11.24, the following terms have the following meanings:

"BHC Act Affiliate" means, with respect to any Person, an "affiliate" (as such term is defined under, and interpreted in accordance with, 12 U.S.C. § 1841(k)) of such Person.

"Covered Entity" means any of (i) a "covered entity" (as such term is defined in, and interpreted in accordance with, 12 C.F.R. § 252.82(b)); (ii) a "covered bank" (as such term is defined in, and interpreted in accordance with, 12 C.F.R. § 47.3(b); or (iii) a "covered FSP" (as such term is defined in, and interpreted in accordance with, 12 C.F.R. § 382.2(b).

"Default Right" means as defined in, and interpreted in accordance with, 12 C.F.R. §§ 252.81, 47.2 or 382.1, as applicable.

"OFC" means a "qualified financial contract" (as defined in, and interpreted in accordance with, 12 U.S.C. § 5390(c)(8)(D).

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first written above.

BORROWERS:

FUTUREFUEL CORP.,
a Delaware corporation

By: Rose Sparks
Name: Rose Sparks
Title: CEO

FUTUREFUEL CHEMICAL COMPANY,
a Delaware corporation

By: Rose Sparks
Name: Rose Sparks
Title: CEO

GUARANTORS:

FUTUREFUEL WAREHOUSE COMPANY, LLC,
an Arkansas limited liability company

By: Rose Sparks
Name: Rose Sparks
Title: CEO

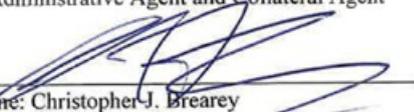
LEGACY REGIONAL TRANSPORT, L.L.C.,
an Arkansas limited liability company

By: FUTUREFUEL CHEMICAL COMPANY,
its sole member

By: Rose Sparks
Name: Rose Sparks
Title: CEO

ADMINISTRATIVE AGENT
AND COLLATERAL AGENT:

REGIONS BANK,
as Administrative Agent and Collateral Agent

By: 
Name: Christopher J. Brearey
Title: Director – Diversified Industries Credit Products

Internal Use

FUTUREFUEL
SECOND A&R CREDIT AGREEMENT

LENDERS:

REGIONS BANK,
as a Lender, Issuing Bank and Swingline Lender

By: 
Name: Christopher J. Brearey
Title: Director – Diversified Industries Credit Products

FIRST COMMUNITY BANK,
as a Lender

By: _____
Name:
Title:

LENDERS:

REGIONS BANK,
as a Lender, Issuing Bank and Swingline Lender

By: _____
Name:
Title:

FIRST COMMUNITY BANK,
as a Lender

By: Dwight E. Ford
Name: Dwight E. Ford
Title: EVP – Chief Lending Officer

Appendix A

LENDERS, REVOLVING COMMITMENTS AND
REVOLVING COMMITMENT PERCENTAGES

Lenders	Revolving Commitment	Revolving Commitment Percentage
Regions Bank	\$60,000,000.00	80.000000000%
First Community Bank	\$15,000,000.00	20.000000000%
Total:	\$75,000,000.00	100.000000000%

**STOCK AWARD AGREEMENT
(NON-EMPLOYEE DIRECTOR AWARD)**

To: [—]
Date of Grant: [—]
Number of Restricted Shares: [—]

FUTUREFUEL CORP., a Delaware corporation, (the "*Corporation*"), is pleased to grant you (the "*Award*") the aggregate number of shares (the "*Restricted Shares*") of Common Stock, listed above, subject to the terms and conditions set forth in this Stock Award Agreement (this "*Agreement*"). This Award is granted pursuant to the FutureFuel Corp. 2017 Omnibus Incentive Plan (the "*Plan*"), a copy of which has been made available to you and shall be deemed a part of this Agreement as if fully set forth herein. If any provision of this Agreement conflicts with the expressly applicable terms of the Plan, the provisions of the Plan shall control and, if necessary, the applicable provisions of the Agreement shall be deemed to be amended to comply with the terms of the Plan. The Date of Grant of the Award and the number of Restricted Shares subject to this Award are stated above. Terms capitalized but not defined herein shall have the meaning set forth in the Plan.

This Agreement sets forth the terms of the agreement between you and the Corporation with respect to the Restricted Shares. By accepting this Agreement, you agree to be bound by all of the terms hereof.

1. **Definitions.** As used in this Agreement, the following terms have the meanings set forth below:

- (a) "*Agreement*" means this Stock Award Agreement.
 - (b) "*Award*" has the meaning set forth in the first paragraph of this Agreement.
 - (c) "*Board of Directors*" means the board of directors of the Corporation.
 - (d) "*Business Day*" means any day other than a Saturday, a Sunday or a day on which banking institutions in the State of Missouri are authorized or obligated by law or executive order to close.
 - (e) "*Committee*" means the Compensation Committee of the Board of Directors.
 - (f) "*Common Stock*" means the authorized common stock of the Corporation, par value \$0.0001 per share, as described in the Corporation's Certificate of Incorporation, as amended from time to time.
 - (g) "*Corporation*" means FutureFuel Corp., a Delaware corporation.
 - (h) "*Date of Grant*" means the date designated as such in the first paragraph of this Agreement.
 - (i) "*Securities Act*" means the Securities Act of 1933, as amended.
-

(j) "**Service**" means your performance of services for the Corporation in the capacity of a non-employee member of the Board of Directors. If you are on bona fide leave of absence under the Family and Medical Leave Act of 1993, as amended, or other approved leave of absence you will still be considered to be in Service to the Corporation.

(k) "**Stock**" means Common Stock, or any other securities that are substituted for Stock as provided in Paragraph 7.

(l) "**Vesting Commencement Date**" means [—].

2 . **Issuance of Restricted Shares.** Evidence of the issuance of the Restricted Shares pursuant to this Agreement may be accomplished in such manner as the Corporation or its authorized representatives shall deem appropriate, including, without limitation, electronic registration, book entry registration or issuance of a stock certificate or stock certificates in your name. In the event the Restricted Shares are issued in book-entry form, the depository and the Corporation's transfer agent shall be provided with appropriate notice referring to the terms, conditions and restrictions applicable to the Restricted Shares, together with such stop-transfer instructions as the Corporation deems appropriate. The Corporation may retain, at its option, the physical custody of any stock certificate representing any Restricted Shares, or require that such certificates be placed in escrow or trust, until all restrictions applicable thereto are removed or lapse. You shall promptly surrender to the Corporation for cancellation any stock certificate representing Restricted Shares that have become forfeited.

3 . **Ownership of Restricted Shares.** You will be entitled to all the rights of absolute ownership of the Restricted Shares upon issuance thereof, including the right to vote and receive dividends with respect to any Restricted Shares.

4 . **Restrictions; Forfeiture.** The Restricted Shares are restricted in that they may not be sold, transferred or otherwise alienated or hypothecated until such restrictions are removed or expire as described in Paragraph 5 of this Agreement. The Restricted Shares are also restricted in the sense that they may be forfeited to the Corporation. If the Restricted Shares are forfeited as provided in Paragraph 6, the Restricted Shares shall revert to the Corporation for cancellation.

5 . **Expiration of Restrictions and Risk of Forfeiture.** The restrictions on all of the Restricted Shares granted pursuant to this Agreement will expire and become transferable and non-forfeitable according to the schedule set forth in this Paragraph 5; provided, however, that such restrictions will expire on such dates only if you have been performing Service as a non-employee member of the Board of Directors continuously since the Vesting Commencement Date through the applicable vesting date.

On or After Each of the Following Vesting Dates	Cumulative Percentage of Shares of Stock as to Which the Restricted Shares are Transferable and Non-forfeitable
[—]	25%
[—]	50%
[—]	75%
[—]	100%

6. **Termination of Service and Forfeiture.** If your Service as a non-employee member of the Board of Directors is terminated for any reason other than Disability or death, any portion of this Award for which restrictions have not lapsed as of the date of termination shall become null and void; provided, however, that the portion, if any, of this Award for which restrictions have lapsed as of the date of such termination shall survive such termination. Forfeiture and lapse of restrictions with respect to termination due to Disability or death shall be governed by the terms of Section 13 of the Plan (provided that for the avoidance of doubt references therein to termination of employment shall be interpreted to mean references to termination of Service).

7. **Adjustment Provisions.** The terms of the Award and the number of Restricted Shares granted hereunder shall be subject to adjustment, from time to time, in accordance with Section 17 of the Plan. Adjustments under this Paragraph 7 shall be made by the Administrator of the Plan, and its determination as to what adjustments shall be made and the extent thereof shall be final, binding and conclusive. No fractional interest shall be issued on account of any such adjustments.

8. **Delivery of Certificates of Stock.** Promptly upon your request following the expiration of the restrictions on the Restricted Shares as contemplated in Paragraph 5, and subject to the requirements of Paragraph 9, the Corporation shall cause to be issued and delivered to you or your designee a certificate representing the number of Restricted Shares as to which restrictions have lapsed, free of any restrictive legend relating to the lapsed restrictions, upon receipt by the Corporation of any required tax withholding. The value of such Restricted Shares shall not bear any interest owing as a result of the passage of time.

9. **Conditions to Delivery of Stock.** Nothing herein shall require the Corporation to issue any Stock with respect to the Award if that issuance would, in the reasonable determination of the Corporation, constitute a violation of applicable law, including the Securities Act, or the rules of any applicable securities exchange or securities association, as then in effect.

10. **Legends.** Any stock certificates representing Restricted Shares, when issued, shall bear appropriate legends with respect to the restrictions on transferability contained in this Agreement until the restrictions have expired as contemplated by Paragraph 5, and subject to the requirements of Paragraph 9. Additionally, such stock certificates shall also bear appropriate legends required under the Securities Act.

11. **Furnish Information.** You agree to furnish to the Corporation all information requested by the Corporation to enable it to comply with any reporting or other requirement imposed upon the Corporation by or under any applicable law.

12. **Remedies.** The Corporation shall be entitled to recover from you all costs, court costs, fees and expenses, including reasonable attorneys' fees, incurred in connection with the enforcement of the terms and provisions of this Agreement whether by an action to enforce specific-performance or for damages for its breach or otherwise.

13. **No Guarantee of Service.** Nothing contained in this Agreement shall confer upon you the right to continue as a member of the Board of Directors of the Corporation.

14. **No Liability for Good Faith Determinations.** The Corporation, the Committee and the members of the Board of Directors shall not be liable for any act, omission or determination taken or made in good faith with respect to this Agreement or the Restricted Shares granted hereunder.

15. Amendment. The Award may be amended by the Board of Directors or by the Committee at any time if the Board of Directors or the Committee determines, in its sole discretion, that amendment is necessary or advisable in light of any addition to or change in any federal or state, tax law or federal or state securities law or other law or regulation, which change occurs after the Date of Grant and by its terms applies to the Award; or other than in the circumstances described in clause (i) or provided in the Plan, with your consent.

16. Execution of Receipts and Releases. Any payment of cash or any issuance or transfer of shares of Stock or other property to you or to your legal representative, heir, legatee or distributee, in accordance with the provisions hereof, shall, to the extent thereof, be in full satisfaction of all claims of such persons hereunder. The Corporation may require you or your legal representative, heir, legatee or distributee, as a condition precedent to such payment or issuance, to execute a release and receipt therefor in such form as it shall determine.

17. No Guarantee of Interests. The Board of Directors and the Corporation do not guarantee the Stock of the Corporation from loss or depreciation.

18. Corporation Records. Records of the Corporation or its subsidiaries regarding your period of Service as a member of the Board of Directors, termination of Service and the reason therefor, leaves of absence, and other matters shall be conclusive for all purposes hereunder, unless determined by the Corporation or the Committee to be incorrect.

19. Severability. If any provision of this Agreement is held to be illegal or invalid for any reason, the illegality or invalidity shall not affect the remaining provisions hereof, but such provision shall be fully severable and this Agreement shall be construed and enforced as if the illegal or invalid provision had never been included herein.

20. Notices.

(a) Whenever any notice is required or permitted hereunder, such notice must be in writing and personally delivered or sent by mail. Any such notice required or permitted to be delivered hereunder shall be deemed to be delivered on the date on which it is personally delivered, or, whether actually received or not, on the third Business Day after it is deposited in the United States mail, certified or registered, postage prepaid, addressed to the person who is to receive it at the address which such person has theretofore specified by written notice delivered in accordance herewith.

The Corporation and you agree that any notices shall be given to the Corporation or to you at the following address; provided that the Corporation or you may change, at any time and from time to time, by written notice to the other, the address which it or he or she had previously specified for receiving notices.

Corporation or
Board of Directors:

FutureFuel Corp.
8235 Forsyth Blvd., Suite 400
Clayton, Missouri 63105
Attn: Rose M. Sparks, Chief Financial Officer

Holder:

At your current address as shown in the Corporation's records

(b) Any person entitled to notice hereunder may waive such notice.

21. Successors and Assigns; Assignment; Intended Beneficiaries. Neither this Agreement, nor any of your rights, powers, duties or obligations hereunder, may be assigned by you. This Agreement shall be binding upon and inure to the benefit of you and your heirs and legal representatives and the Corporation and its successors and assigns. Successors of the Corporation shall include, without limitation, any corporation or corporations acquiring, directly or indirectly, all or substantially all of the assets of the Corporation, whether by merger, consolidation, purchase, lease or otherwise, and such successor shall thereafter be deemed "the Corporation" for the purpose hereof. The Corporation shall have the right to assign this Agreement to an affiliate or in connection with the sale of all or a portion of its business or assets or otherwise by operation of law, and such assignment shall not in any way release you from any of your obligations under this Agreement, nor preclude or limit the Corporation's right to enforce the same.

22. Headings. The titles and headings of paragraphs are included for convenience of reference only and shall not affect the construction of the provisions hereof.

23. Counterparts; Missouri Governing Law. This Agreement may be executed in two counterpart copies, each of which may be executed by one of the parties hereto, but all of which, when taken together, shall constitute a single agreement binding upon all of the parties hereto. This Agreement shall be governed by and construed and interpreted in accordance with the internal laws of the State of Missouri without reference to conflicts of law principles, or any rule or decision that would defer to the substantive laws of another jurisdiction.

24. Word Usage. Words used in the masculine shall apply to the feminine where applicable, and wherever the context of this Agreement dictates, the plural shall be read as the singular and the singular as the plural.

25. Submission to Jurisdiction. SUBJECT TO SECTIONS 19 AND 23 OF THE PLAN, ANY LEGAL SUIT, ACTION OR PROCEEDING ARISING OUT OF OR BASED UPON THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY MAY BE INSTITUTED IN THE FEDERAL COURTS OF THE UNITED STATES OF AMERICA FOR THE EASTERN DISTRICT OF MISSOURI OR THE COURTS OF THE STATE OF MISSOURI LOCATED IN THE COUNTY OF ST. LOUIS, AND EACH PARTY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF SUCH COURTS IN ANY SUCH SUIT, ACTION OR PROCEEDING. SERVICE OF PROCESS, SUMMONS, NOTICE OR OTHER DOCUMENT BY MAIL TO SUCH PARTY'S ADDRESS SET FORTH HEREIN SHALL BE EFFECTIVE SERVICE OF PROCESS FOR ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT IN ANY SUCH COURT. THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVE ANY OBJECTION TO THE LAYING OF VENUE OF ANY SUIT, ACTION OR ANY PROCEEDING IN SUCH COURTS AND IRREVOCABLY WAIVE AND AGREE NOT TO PLEAD OR CLAIM IN ANY SUCH COURT THAT ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN ANY SUCH COURT HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

[THE REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK]

IN WITNESS WHEREOF, the Corporation has caused this Agreement to be executed by its duly authorized officer as of the Date of Grant first above written.

FUTUREFUEL CORP.

By: _____
Rose M. Sparks
Chief Financial Officer

ACKNOWLEDGED AND AGREED:

[Non-employee director]

**FutureFuel Corp.
2017 Omnibus Incentive Plan
Stock Unit – Award Agreement**

You have been selected to receive a grant of Stock Units pursuant to the FutureFuel Corp. 2017 Omnibus Incentive Plan (the "Plan"), as specified below:

Participant: [—]

Date of Award: [—]

Number of Stock Units Granted: [—]

This Award shall be subject to the terms and conditions prescribed in the Plan and in the FutureFuel Corp. Stock Unit Award Agreement attached hereto.

IN WITNESS WHEREOF, the parties have caused this Award Agreement to be executed on this 3rd day of September.

FUTUREFUEL CORP.

By _____
Name: _____
Title: _____

PARTICIPANT:

Name: _____

Please sign and return one copy of this agreement.



**FUTUREFUEL CORP.
STOCK UNIT
AWARD AGREEMENT**

FutureFuel Corp. (the "Company") established the FutureFuel Corp. 2017 Omnibus Incentive Plan (the "Plan") pursuant to which equity-based awards may be granted to employees, consultants and directors of the Company and its subsidiaries; and

The Board of Directors of the Company, and the Administrator of the Plan appointed by the Board of Directors, has determined that the interests of the Company will be advanced by encouraging and enabling ownership in the Company by key personnel whose long-term employment with or engagement by the Company or its Subsidiaries is considered essential to the Company's continued progress and, thereby, encourage recipients to act in the shareholders' interests and share in the Company's success.

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

Section 1. Definitions

Capitalized terms not defined herein shall have the meaning ascribed to them by the Plan. As used in this Agreement, the following terms shall have the following meanings:

- A. "Award" means the award provided for in Section 2.
- B. "Date of Award" of Stock Units means the date set forth on the Award instrument applicable to those Stock Units.
- C. "Participant" means the individual shown as the recipient of an award of Stock Units, as set forth on the Award instrument applicable to those Units.
- D. "Stock" means the Common Stock of the Company.
- E. "Stock Unit" means the obligation of the Company to transfer one share of Stock to Participant at the time provided in Section 5 of this Agreement.

F. "Termination of Service" means separation from service with the Company and its affiliates (generally 50% common control with the Company), as defined in IRS regulations under Section 409A of the Internal Revenue Code of 1986, as amended.

Section 2. Award

Subject to the terms of this Agreement, the Company awarded to Participant the number of Stock Units set forth on the Award instrument applicable to those Stock Units, effective as of the Date of Award set forth on such instrument.

This award of Stock Units shall not confer any right to the Participant (or any other Participant) to be granted Stock Units or other awards in the future under the Plan.

Section 3. *Bookkeeping Account*

The Company shall record the number of Stock Units granted hereunder to a bookkeeping account for Participant (the "Stock Unit Account"). Participant's Stock Unit Account shall be debited by the number of Stock Units with respect to which Stock was distributed to Participant in accordance with Section 5. Participant's Stock Units also shall be adjusted from time to time for stock dividend, stock splits and other such transactions in accordance with Section 8. In addition, to the extent cash dividends are paid on shares of Stock while the Stock Units governed by this award remain outstanding, the Company shall adjust the number of Stock Units that are the subject of this award to reflect the value of the dividends the Participant would have received if he or she had been the owner of Stock instead of Stock Units.

Section 4. *Vesting and Forfeiture*

A. Vesting. Subject to restrictions and limitations in this Agreement and the Plan, 20% of the Stock Units shall vest on the first five anniversaries of the Date of Award.

B. Termination and Forfeiture. Upon the Termination of Employment of the Participant, all unvested Stock Units that have not vested pursuant to Section 4.A. hereof, or pursuant to the terms and conditions of the Plan, shall be cancelled and forfeited.

Section 5. *Distribution of Shares of Stock*

Shares of Stock equal to the number of Stock Units credited to the Stock Unit Account of Participant shall become distributable to the Participant as soon as administratively feasible following the date that the Stock Units become 100% vested. In the event that the Participant experiences a Termination of Employment without Cause prior to the date that the Stock Units become 100% vested, the number of vested Stock Units credited to the Stock Unit Account of the Participant, if any, shall become distributable as soon as administratively feasible following such Termination of Employment, subject to any delay required by Section 6.1.5 of the Plan.

Such Stock shall be distributed as soon as administratively feasible after the applicable date prescribed above, but not later than the later of the end of the calendar year in which the specified date occurs or the 15th day of the third calendar month following such specified date.

The Company shall have the power and the right to deduct or withhold, or require the Participant to remit to the Company, an amount sufficient to satisfy any federal, state, and local taxes of any kind (including, but not limited to, the Participant's FICA obligations) which the Company, in its sole discretion, deems necessary to be withheld or remitted to comply with the Code and/or any other applicable law, rule or regulation with respect to the Stock Units and, if the Participant fails to do so, the Company may otherwise refuse to issue or transfer any shares of Stock otherwise required to be issued pursuant to this Agreement. Any statutorily required withholding obligation with regard to the Participant may be satisfied by reducing the amount of cash or shares of Stock otherwise deliverable to the Participant hereunder.

Section 6. *Stockholder Rights*

Participant shall not have any of the rights of a stockholder of the Company with respect to Stock Units, such as the right to vote.

Section 7. *Stock Units Non-Transferable*

Stock Units awarded hereunder shall not be transferable by Participant. Except as may be required by the federal income tax with-holding provisions of the Code or by the tax laws of any State or foreign sovereign, the interests of Participant under this Agreement are not subject to the claims of their creditors and may not be voluntarily or involuntarily sold, transferred, alienated, assigned, pledged, anticipated, or encumbered. Any attempt by Participant to sell, transfer, alienate, assign, pledge, anticipate, encumber, charge or otherwise dispose of any right to benefits payable hereunder shall be void.

Section 8. *Adjustment in Certain Events*

If there is any change in the Stock by reason of stock dividends, split-ups, mergers, consolidations, reorganizations, combinations or exchanges of shares or the like, the number of Stock Units credited to Participant's Stock Unit Account shall be adjusted appropriately so that the number of Stock Units credited to Participant's Stock Unit Account after such an event shall equal the number of shares of Stock a stockholder would own after such an event if the stockholder, at the time such an event occurred, had owned shares of Stock equal to the number of Stock Units credited to Participant's Stock Unit Account immediately before such an event.

Section 9. *Source of Payment*

Shares of Stock transferable to Participant under this Agreement may be either Treasury shares, authorized but unissued shares, or any combination of such Stock. The Company shall have no duties to segregate or set aside any assets to secure Participant's right to receive shares of Stock under this Agreement. Participant shall not have any rights with respect to transfer of shares of Stock under this Agreement other than the unsecured right to receive shares of Stock from the Company.

Section 10. *Continuation as an Employee*

This Agreement shall not confer upon Participant any right to continue as an employee of the Company for any period of time, or at any particular rate of compensation.

Section 11. *Amendment*

This Agreement may be amended by mutual consent of the parties hereto by written agreement.

Section 12. *Governing Law*

The terms and provisions of this Agreement shall be construed according to the laws of the State of Delaware, without reference to its conflict of laws provisions. This Agreement shall be deemed to contain the provisions necessary to comply with such laws.



March 31, 2025

Board of Directors
FutureFuel Corp.
8235 Forsyth Blvd., Suite 400
St. Louis, MO 63105

Grant Thornton LLP
6120 S. Yale Ave, Suite 1400
Tulsa, OK 74136
T 918.877.0800
F 918.877.0805
www.GrantThornton.com

Dear Directors:

We are providing this letter solely for inclusion as an exhibit to FutureFuel Corp.'s (the "Company") Form 10-K filing pursuant to Item 601 of Regulation S-K.

We have audited the consolidated financial statements included in the Company's Annual Report on Form 10-K for the year ended December 31, 2024, as set forth in our report dated March 31, 2025. As stated in Note 2 to those financial statements, the Company changed its accounting for the presentation of parts and supplies from inventory to other current assets. Note 2 also states management's belief that the newly adopted accounting principle is preferable in the circumstances because management has increased the investment in these parts and supplies given management's focus on plant reliability and efficiency as well as the fact that these parts are not revenue generating assets similar to the Company's raw materials, work in process, and finished goods inventories but are instead held to support the maintenance and repair of the Company's plant equipment.

With regard to the aforementioned accounting change, it should be understood that authoritative criteria have not been established for evaluating the preferability of one acceptable method of accounting over another acceptable method and, in expressing our concurrence below, we have relied on management's business planning and judgment and on management's determination that this change in accounting principle is preferable.

Based on our reading of management's stated reasons and justification for this change in accounting principle in the Form 10-K, and our discussions with management as to their judgment about the relevant business planning factors relating to the change, we concur with management that the newly adopted method of accounting is preferable in the Company's circumstances.

Sincerely,

/s/ GRANT THORNTON LLP

Tulsa, Oklahoma

Grant Thornton LLP
U.S. member firm of Grant Thornton International Ltd

Approved by FutureFuel Corp.'s Board
of Directors on February 3, 2011,
as amended on May 27, 2022

**FUTURE FUEL CORP.
INSIDER TRADING POLICY**

FutureFuel Corp., a Delaware corporation (the "**Company**"), hereby adopts the following Insider Trading Policy (the "**Policy**"). This Policy applies to the Company and its subsidiaries, and each of their employees, officers, and directors. The Company reserves the right to amend, alter, or terminate this Policy at any time for any reason.

The purchase or sale of securities while aware of material nonpublic information, or the disclosure of material nonpublic information to others who then trade in the Company's securities, is prohibited by the federal securities laws. Insider trading violations are pursued vigorously by the United States Securities and Exchange Commission (the "**SEC**") and federal prosecutors and are punished severely. While the regulatory authorities concentrate their efforts on the individuals who trade, or who tip inside information to others who trade, the federal securities laws also impose potential liability on companies and other "controlling persons" if they fail to take reasonable steps to prevent insider trading by company personnel.

The Company's board of directors ("**Board**") has adopted this Policy, as amended to date, both to satisfy the Company's obligation to prevent insider trading and to help Company personnel avoid the severe consequences associated with violations of the insider trading laws. The Policy also is intended to prevent even the appearance of improper conduct on the part of anyone employed by or associated with the Company (and not just "insiders").

Consequences of Insider Trading

The consequences of an insider trading violation can be severe and can include civil and criminal liability (including fines in excess of \$1,000,000) for both Company personnel who trade on (or tip) inside information and for the Company and its management.

An employee's failure to comply with the Company's insider trading policy may subject the employee to Company-imposed sanctions, including dismissal for cause, whether or not the employee's failure to comply results in a violation of law.

Policy Statement

It is the policy of the Company that no director, officer, or other employee of the Company who is aware of material nonpublic information relating to the Company may, directly or through family members or other persons or entities: (i) buy or sell securities of the Company (other than pursuant to a pre-approved Trading Plan, as defined below, that complies with SEC Rule 10b5-1), or engage in any other action to take personal advantage of that information; or (ii) pass that information on to others outside the Company, including family and friends. In addition, it is the policy of the Company that no director, officer, or other employee of the Company who, in the course of working for the Company, learns of material nonpublic information about a company with which the Company does business, including a customer or supplier of the Company, may trade in that company's securities until the information becomes public or is no longer material.

Transactions that may be necessary or justifiable for independent reasons (such as the need to raise money for an emergency expenditure) are not excepted from this Policy. The securities laws do not recognize such mitigating circumstances and, in any event, even the appearance of an improper transaction must be avoided to preserve the Company's reputation for adhering to the highest standards of conduct.

Disclosure Of Information To Others.

The Company has established procedures for releasing material information in a manner that is designed to achieve broad public dissemination of the information immediately upon its release. You may not, therefore, disclose information to anyone outside the Company, including family members and friends, other than in accordance with those procedures. You also may not discuss the Company or its business in an internet "chat room" or similar internet-based forum.

Material Information.

Material information is any information that a reasonable investor would consider important in making a decision to buy, hold, or sell securities. Any information that could be expected to affect the Company's stock price, whether it is positive or negative, should be considered material. Some examples of information that ordinarily would be regarded as material are:

- Projections of future earnings or losses, or other earnings guidance;
- Earnings that are inconsistent with the Company's expectations;
- A pending or proposed merger, acquisition, or tender offer;
- A pending or proposed acquisition or disposition of a significant asset;
- A change in dividend policy, the declaration of a stock split, or an offering of additional securities;
- A change in management;
- Development of a significant new product or process;
- Impending bankruptcy or the existence of severe liquidity problems; or
- The gain or loss of a significant customer or supplier.

When Information is "Public".

If you are aware of material nonpublic information, you may not trade until the information has been disclosed broadly to the marketplace (such as by press release) and the investing public has had time to absorb the information fully. To avoid the appearance of impropriety, as a general rule, information should not be considered fully absorbed by the marketplace until after the second business day after the information is released.

Transactions by Family Members.

This Policy also applies to your family members who reside with you, anyone else who lives in your household, and any family members who do not live in your household but whose transactions in company securities are directed by you or are subject to your influence or control (such as parents or children who consult with you before they trade in company securities). You are responsible for the transactions of these other persons and therefore should make them aware of the need to confer with you before they trade in the Company's securities.

Transactions Under Company Plans.

Stock Option Exercises. This Policy does not apply to the exercise of an employee stock option, or to the exercise of a tax withholding right pursuant to which you elect to have the Company withhold shares subject to an option to satisfy tax withholding requirements. This Policy does apply, however, to any sale of stock as part of a broker-assisted cashless exercise of an option, or any other market sale for the purpose of generating the cash needed to pay the exercise price of an option.

401(k) Plan. This Policy does not apply to purchases of Company stock in the 401(k) plan resulting from your periodic contribution of money to the plan pursuant to your payroll deduction election. This Policy does apply, however, to certain elections you may make under the 401(k) plan, including: (i) an election to increase or decrease the percentage of your periodic contributions that will be allocated to the Company stock fund; (ii) an election to make an intra-plan transfer of an existing account balance into or out of the Company stock fund; (iii) an election to borrow money against your 401(k) plan account if the loan will result in a liquidation of some or all of your Company stock fund balance; and (iv) your election to pre-pay a plan loan if the pre-payment will result in allocation of loan proceeds to the Company stock fund.

Additional Prohibited Transactions.

The Company considers it improper and inappropriate for any director, officer, or other employee of the Company to engage in short-term or speculative transactions in the Company's securities. It therefore is the Company's policy that directors, officers, and other employees may not engage in any of the following transactions.

Short-term Trading. An employee's short-term trading of the Company's securities may be distracting to the employee and may unduly focus the employee on the Company's short-term stock market performance instead of the Company's long-term business objectives. For these reasons, any director, officer, or other employee of the Company who purchases Company securities in the open market may not sell any company securities of the same class during the six months following the purchase.

Short Sales. Short sales of the Company's securities evidence an expectation on the part of the seller that the securities will decline in value, and therefore signal to the market that the seller has no confidence in the Company or its short-term prospects. In addition, short sales may reduce the seller's incentive to improve the Company's performance. For these reasons, short sales of the Company's securities are prohibited by this Policy.

Publicly Traded Options. A transaction in options is, in effect, a bet on the short-term movement of the Company's stock and therefore creates the appearance that the director or employee is trading based on inside information. Transactions in options also may focus the director's or employee's attention on short-term performance at the expense of the Company's long-term objectives. Accordingly, transactions in puts, calls, or other derivative securities, on an exchange or in any other organized market, are prohibited by this Policy. Option positions arising from certain types of hedging transactions are governed by the section below captioned "Hedging Transactions."

Hedging Transactions. Certain forms of hedging or monetization transactions, such as zero-cost collars and forward sale contracts, allow an employee to lock in much of the value of his or her stock holdings, often in exchange for all or part of the potential for upside appreciation in the stock. These transactions allow the director or employee to continue to own the covered securities, but without the full risks and rewards of ownership. When that occurs, the director or employee may no longer have the same objectives as the Company's other shareholders. Therefore, the Company strongly discourages you from engaging in such transactions. Any person wishing to enter into such an arrangement must first pre-clear the proposed transaction with the Board. Any request for pre-clearance of a hedging or similar arrangement must be submitted to the Board at least two weeks prior to the proposed execution of documents evidencing the proposed transaction and must set forth a justification for the proposed transaction. The Company may withhold its consent to such transaction in its sole discretion.

Margin Accounts and Pledges. Securities held in a margin account may be sold by the broker without the customer's consent if the customer fails to meet a margin call. Similarly, securities pledged (or hypothecated) as collateral for a loan may be sold in foreclosure if the borrower defaults on the loan. Because a margin sale or foreclosure sale may occur at a time when the pledgor is aware of material nonpublic information or otherwise is not permitted to trade in Company securities, directors, officers, and other employees are prohibited from holding Company securities in a margin account or pledging Company securities as collateral for a loan. An exception to this prohibition may be granted where a person wishes to pledge Company securities as collateral for a loan (not including margin debt) and clearly demonstrates the financial capacity to repay the loan without resort to the pledged securities. Any person who wishes to pledge Company securities as collateral for a loan must submit a request for approval to the Board at least two weeks prior to the proposed execution of documents evidencing the proposed pledge.

Covered Persons

"Covered Persons" means (i) all directors of the Company, (ii) all executive officers, vice presidents and general managers of the Company, (iii) all employees working in the finance or legal departments, and (iv) certain other employees that the Company may designate from time to time as Covered Persons because of their position, responsibilities or their actual or potential access to material information.

Regardless of whether or not they are aware of any material nonpublic information, Covered Persons (as defined below) may not buy or sell the Company's securities during the following periods (each, a **"Blackout Period"**): (i) the period commencing March 21 and ending after the second business day after the Company files its quarterly report with the SEC for the immediately preceding calendar quarter ending March 31; (ii) the period commencing June 20 and ending after the second business day after the Company files its quarterly report with the SEC for the immediately preceding calendar quarter ending June 30; (iii) the period commencing September 20 and ending after the second business day after the Company files its quarterly report with the SEC for the immediately preceding calendar quarter ending September 30; (iv) the period commencing December 16 and ending after the second business day after the Company files its annual report with the SEC for the immediately preceding calendar year ending December 31; and (v) any other period the Board or an executive officer may designate from time to time due to specific nonpublic facts and circumstances regarding the Company (such as negotiation of mergers, acquisitions or dispositions, investigation and assessment of cybersecurity incidents or new product developments) (a **"Special Blackout Period"**). When a Special Blackout Period is imposed, the Covered Persons to whom such Special Blackout Period applies will be notified, but the Special Blackout Period will not otherwise be announced to the public or other persons within the Company.

As a general principle, Covered Persons should trade in the Company's securities only following the wide dissemination of information on the status of the Company and current results and at those times when there is relative stability in the Company's operations and the market for its securities. Covered Persons should be guided by a sense of fairness to all segments of the investing public.

Trading Plans

Notwithstanding the above restrictions on trading in Company securities, persons subject to this Policy may transact in securities pursuant to a pre-existing written plan, contract, instruction, or arrangement under Rule 10b5-1 under the Securities Exchange Act of 1934, as amended (a **"Trading Plan"**) that:

- a. has been entered into in good faith when the individual is not aware of any material nonpublic information about the Company (and for a Covered Person, outside of a Blackout Period),

- b. has been reviewed and approved at least 20 days in advance of any trades thereunder by the Chief Financial Officer (or, if revised or amended, such revisions or amendments have been reviewed and approved by the Chief Financial Officer at least 30 days in advance of any subsequent trades); and
- c. gives a third party the discretionary authority to execute such purchases and sales, outside the control of the individual, so long as such third party does not possess any material nonpublic information about the Company; or explicitly specifies the security or securities to be purchased or sold, the number of shares, the prices and/or dates of transactions, or other formula(s) describing such transactions.

Frequent amendment or entry into, and then termination of, Trading Plans is discouraged as it can be perceived as a method to circumvent the restrictions of this Policy and the securities laws and will be reviewed on a case-by-case basis by the Chief Financial Officer taking into account the individual's liquidity and other financial needs.

Pre-Clearance Procedure

All transactions in the Company's securities by any Covered Persons must be authorized in advance by the Company's Chief Financial Officer. Any clearance obtained in this manner will be valid for three business days (unless otherwise determined by the Chief Financial Officer) and must be renewed if the person fails to execute the purchase or sale within such time. These procedures also apply to transactions by immediate family members of Covered Persons subject to this Policy (including a spouse, a child, parents, grandparents, siblings and in-laws), anyone else who lives in the same household, and any person or entity under such person's influence or control.

Post-Termination Transactions

This Policy continues to apply to your transactions in Company securities even after you have terminated employment. If you are in possession of material nonpublic information when your employment terminates, you may not trade in Company securities until that information has become public or is no longer material.

Company Assistance

Any person who has a question about this Policy or its application to any proposed transaction may obtain additional guidance from the Company's chief executive officer. Ultimately, however, the responsibility for adhering to this Policy and avoiding unlawful transactions rests with the individual employee, officer, or director. Each case must ultimately stand or fall on its own merits. No single rule could possibly cover all situations.

Dissemination

This Policy will be distributed to each existing employee, officer, and director of the Company and to each new employee, officer, and director of the Company upon commencement of his or her employment or other relationship with the Company.

Certifications

All employees must certify their understanding of, and intent to comply with, this Policy. Each officer and director of the Company must certify their understanding of, intent to comply with, and continued compliance with, this Policy on not less than an annual basis. A copy of the certification that all directors, officers, and employees must sign is attached hereto.

CERTIFICATION

I certify that:

1. I have read and understand FutureFuel Corp.'s (the "**Company**") Insider Trading Policy regarding securities trades by Company personnel (the "**Policy**"). I understand that the Company's chief executive officer is available to answer to any questions I have regarding the Policy.
2. Since February 3, 2011, or such shorter period of time that I have been an employee, officer, or director of the Company, I have complied with the Policy.
3. I will continue to comply with the Policy for as long as I am subject to the policy.

Signature: _____

Name: _____

Date: _____

Exhibit 21
Subsidiaries of FutureFuel Corp.

FutureFuel Chemical Company, a Delaware corporation

FutureFuel Warehouse Company, LLC, an Arkansas limited liability company

Legacy Regional Transport, L.L.C., an Arkansas limited liability company

Exhibit 23.1
Consent of Grant Thornton LLP

Consent of Independent Registered Public Accounting Firm

We have issued our reports dated March 31, 2025, with respect to the consolidated financial statements and internal control over financial reporting included in the Annual Report of FutureFuel Corp. on Form 10-K for the year ended December 31, 2024. We consent to the incorporation by reference of said reports in the Registration Statement of FutureFuel Corp. on Form S-8 (File No. 333-221457).

/s/ GRANT THORNTON LLP

Tulsa, Oklahoma
March 31, 2025

Consent of Independent Registered Public Accounting Firm

We consent to the incorporation by reference in the Registration Statement (No. 333-221457) on Form S-8 of FutureFuel Corp. of our report dated March 14, 2024, except for the restatement described in Note 25 to the 2023 consolidated financial statements filed on Form 10-K/A on May 10, 2024, as to which the date is May 10, 2024, relating to the consolidated financial statements of FutureFuel Corp., appearing in this Annual Report on Form 10-K of FutureFuel Corp. for the year ended December 31, 2024.

/s/RSM US LLP

St. Louis, Missouri
March 31, 2025

**Exhibit 31.1
Certification**

I, Roeland Polet, certify that:

1. I have reviewed this report on Form 10-K of FutureFuel Corp. (the "registrant").
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and the other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially effect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors:
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2025

/s/ Roeland Polet

Roeland Polet
Chief Executive Officer

Exhibit 31.2
Certification

I, Rose M. Sparks, certify that:

1. I have reviewed this report on Form 10-K of FutureFuel Corp. (the "registrant").
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report.
3. Based on my knowledge, the financial statements, and the other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report.
4. The registrant's other certifying officers and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under my supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially effect, the registrant's internal control over financial reporting.
5. The registrant's other certifying officers and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors:
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: March 31, 2025

/s/ Rose M. Sparks

Rose M. Sparks
Chief Financial Officer and Principal Financial Officer

Exhibit 32
Certification
Pursuant to 18 U.S.C.
1350, As Adopted
Pursuant to
§906 of the Sarbanes-Oxley
Act of 2002

In connection with the Annual Report of Future Fuel Corp. (the "Company") on Form 10-K for the period ended December 31, 2024 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), the undersigned hereby certify pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

1. The Report fully complies with the requirements of § 13(a) of the Securities Exchange Act of 1934, as amended.
2. The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Roeland Polet

Roeland Polet,
Chief Executive Officer

/s/ Rose M. Sparks

Rose M. Sparks,
Chief Financial Officer and Principal Financial Officer

March 31, 2025

**FUTUREFUEL CORP.
CLAWBACK POLICY
(Effective May 30, 2023)**

Introduction

The Board of Directors (the "**Board**") of FutureFuel Corp. (the "**Company**") believes it is in the best interests of the Company and its shareholders to provide competitive compensation packages to executive officers and directors that reward sustained financial and operating performance that creates long-term value for shareholders. The Board has adopted this policy (the "**Policy**") to provide for the recoupment of certain executive compensation in the event of an accounting restatement resulting from material noncompliance with financial reporting requirements under the federal securities laws. For the avoidance of doubt, this Policy applies to awards granted under the Company's 2017 Omnibus Incentive Plan, effective September 7, 2017 (as it may be amended, restated, modified or supplemented from time to time (the "**Incentive Plan**"), and the awards issued pursuant thereto. This Policy is designed to comply with Section 10D of the Securities Exchange Act of 1934, as amended (the "**Exchange Act**"), and the listing standards of New York Stock Exchange LLC and its affiliates (collectively, the "**NYSE**") or any other national securities exchange on which the Company's securities are listed.

Administration

This Policy shall be administered by the Board or, for so long as designated by the Board, the Board's compensation committee (the "**Committee**"), in which case references herein to the Board shall be deemed references to the Committee. The Committee shall make a recommendation to the Board for application of this Policy. Any determinations made by the Board shall be final and binding on all affected individuals.

Covered Participants

This Policy applies to the Company's current and former executive officers and directors, as determined by the Board in accordance with Section 10D of the Exchange Act, Rule 10D-1 thereunder and the listing standards of the NYSE or any other national securities exchange on which the Company's securities are listed, and such other senior executives and employees of the Company and its subsidiaries, and persons engaged by the Company or by any of its subsidiaries to render services as advisors or consultants, who may from time to time be deemed subject to the Policy by the Board (each, a "**Covered Participant**" and collectively, "**Covered Participants**").

Recoupment: Accounting Restatement

In the event the Company is required to prepare an accounting restatement of its financial statements due to the Company's material noncompliance with any financial reporting requirement under the securities laws, the Board will require prompt reimbursement or forfeiture of any excess Incentive-Based Compensation received by any Covered Participant during the three completed fiscal years immediately preceding the date on which the Company is required to prepare an accounting restatement, in addition to any transition period (that results from any change in the Company's fiscal year) within or immediately following such three completed fiscal years (the "**Recoupment Amount**"). The Recoupment Amount shall be computed without regard to any taxes paid by the Covered Participant with respect to such Incentive-Based Compensation. Incentive-Based Compensation is deemed received in the Company's fiscal period during which the Financial Reporting Measure specified in the Incentive-Based Compensation award is attained, even if the payment or grant of the Incentive-Based Compensation occurs after the end of that period.

Incentive-Based Compensation

For purposes of this Policy, "**Incentive-Based Compensation**" means any of the following; provided that, such compensation is granted, earned, or vested based wholly or in part upon the attainment of a "**Financial Reporting Measure**" (as defined below):

- Annual bonuses and other short- and long-term cash incentives;
- Restricted stock;
- Restricted stock units;
- Performance shares;
- Performance units;
- Stock options (including incentive stock options and nonqualified stock options);
- Stock awards; and
- Stock appreciation rights.

A "**Financial Reporting Measure**" is a measure that is determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, including any measure that is derived wholly or in part from such measure, including, but not limited to:

- Cash flow;
- Earnings (including gross margin, earnings before interest and taxes, earnings before taxes, and net earnings);
- Earnings per share;
- Growth in earnings or earnings per share;
- Company stock price;
- Return on equity or average shareholders' equity;
- Total shareholder return;
- Return on capital;

- Return on assets or net assets;
- Return on investment;
- Revenue;
- Income or net income;
- Operating income or net operating income;
- Operating profit or net operating profit;
- Operating margin;
- Return on operating revenue;
- Market share;
- Overhead or other expense reduction;
- Growth in shareholder value relative to the moving average of the S&P 500 Index or a peer group index;
- Strategic plan development and implementation; and
- Any other similar criteria.

Excess Incentive-Based Compensation: Amount Subject to Recovery

The amount to be recovered will be the excess of the Incentive-Based Compensation paid to the Covered Participant based on the erroneous data over the Incentive-Based Compensation that would have been paid to the Covered Participant had it been based on the restated results, as determined by the Board.

If the Board cannot determine the amount of excess Incentive-Based Compensation received by the Covered Participant directly from the information in the accounting restatement, then it will make its determination based on a reasonable estimate of the effect of the accounting restatement.

Method of Recoupment

The Board will determine, in its sole discretion, the method for recouping Incentive-Based Compensation hereunder which may include, without limitation:

- Requiring reimbursement of cash Incentive-Based Compensation previously paid;
- Seeking recovery of any gain realized on the vesting, exercise, settlement, sale, transfer, or other disposition of any equity-based awards;
- Offsetting the recouped amount from any compensation otherwise owed by the Company to the Covered Participant;
- Cancelling outstanding vested or unvested equity awards; and/or

- Taking any other remedial and recovery action permitted by law, as determined by the Board.

No Indemnification

The Company shall not indemnify any Covered Participant against the loss of any incorrectly awarded Incentive-Based Compensation.

Interpretation

The Board is authorized to interpret and construe this Policy and to make all determinations necessary, appropriate, or advisable for the administration of this Policy. It is intended that this Policy be interpreted in a manner that is consistent with the requirements of Section 10D of the Exchange Act and any applicable rules or standards adopted by the Securities and Exchange Commission (the "**SEC**"), the NYSE or any national securities exchange on which the Company's securities are listed (collectively, the "**Applicable Rules**").

Effective Date

This Policy shall be effective as of the date first set forth above (the "**Effective Date**") and shall apply to Incentive-Based Compensation that is approved, awarded or granted to Covered Participants, whether prior to, on, or after the Effective Date.

Amendment; Termination; Applicable Rules

The Board may amend or terminate this Policy from time to time in its discretion. This Policy shall be interpreted in a manner that is consistent with any Applicable Rule and shall otherwise be interpreted (including in the determination of amounts recoverable) in the business judgment of the Board. To the extent the Applicable Rules require recovery of Incentive-Based Compensation in additional circumstances beyond those specified in this Policy, nothing in this Policy shall be deemed to limit or restrict the right or obligation of the Company to recover Incentive-Based Compensation to the fullest extent required by the Applicable Rules. This Policy shall be deemed to be automatically amended, as of the date the Applicable Rules become effective with respect to the Company, as of the date the Applicable Rules become effective with respect to the Company, to the extent required for this Policy to comply with the Applicable Rules.

Other Recoupment Rights

The Board intends that this Policy will be applied to the fullest extent of the law. The Board may require that any employment agreement, equity award agreement, stock options award agreement, performance-accelerated restricted shares award agreement, stock appreciation rights award agreement, or other similar agreement or instrument entered into on or after the Effective Date shall, as a condition to the grant of any benefit thereunder, require a Covered Participant to agree to abide by the terms of this Policy. Any right of recoupment under this Policy is in addition to, and not in lieu of, any other remedies or rights of recoupment that may be available to the Company pursuant to the terms of any similar policy in any compensation plan or policy, employment agreement, equity award agreement, stock options award agreement, performance-accelerated restricted shares award agreement, stock appreciation rights award agreement, or other similar agreement or instrument and any other legal remedies available to the Company.

Impracticability

The Board shall recover any excess Incentive-Based Compensation in accordance with this Policy unless such recovery would be impracticable, as determined by the Board in accordance with the Applicable Rules.

Successors

This Policy shall be binding and enforceable against all Covered Participants and their beneficiaries, heirs, executors, administrators or other legal representatives.