

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): **March 31, 2025**

AUDIOEYE, INC.

(Exact name of registrant as specified in charter)

Delaware
State of Other Jurisdiction of
Incorporation

001-38640
Commission File Number

20-2939845
IRS Employer Identification No.

5210 E. Williams Circle, Suite 750
Tucson, Arizona 85711
(Address of principal executive offices / Zip Code)

(866) 331-5324
(Registrant's telephone number, including area code)

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

- ☐ Written communications pursuant to Rule 425 under the Securities Act.
☐ Soliciting material pursuant to Rule 14a-12 under the Exchange Act.
☐ Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act.
☐ Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act.

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, par value \$0.00001 per share	AEYE	The Nasdaq Capital Market

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

Emerging growth company ☐

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

Item 1.01 Entry into a Material Definitive Agreement.

On March 31, 2025, AudioEye, Inc. (the "Company") and its wholly-owned subsidiaries, ADA Site Compliance, LLC and Criterion 508 Solutions, Inc. (together with the Company, individually and collectively, jointly and severally, "Borrower"), entered into a Loan and Security Agreement (the "Loan Agreement") with Western Alliance Bank, an Arizona corporation (the "Lender").

The Loan Agreement provides for a (i) term loan facility, comprising of a \$12.0 million term loan advance (the "Term A Advance") funded on March 31, 2025, and subsequent term loan advances at the Borrower's request within the Draw Period (March 31, 2025 through March 31, 2026) subject to the terms and conditions of the Loan Agreement, in a minimum amount of \$1.0 million and an aggregate principal amount not to exceed \$5.0 million (the "Term B Advances" and together with the Term A Advance, the "Term Advances"); and (ii) revolving line of credit in an aggregate outstanding amount not to exceed \$3.0 million (the "Revolving Facility"). The Term Advances and the Revolving Facility have a maturity date of March 31, 2030.

Proceeds from the Term Advances and the Revolving Facility may be used (a) to repay the Borrower's outstanding liabilities and obligations to SG Credit Partners under its existing debt; (b) for working capital or general corporate purposes to fund general business requirements (except that proceeds from the Revolving Facility may not be used for earn-out payments or other deferred considerations related to acquisitions, or for stock buy-backs); and (c) subject to the Lender's consent, for future acquisitions.

The outstanding Term Advances and the Revolving Facility bear interest on the outstanding daily balance at a floating rate equal to 3.25% above the term SOFR rate, which is defined as greater of (i) 2.30% and (ii) the 1-month Term SOFR Reference Rate.

For each Term Advance, Borrower is obligated to pay interest-only payments with respect to such Term Advance through the day before the Term Loan Amortization Date, which is April 10, 2026. Beginning on the Term Loan Amortization Date, Borrower shall repay each outstanding Term Advance in (i) quarterly principal payments in an amount equal to the Repayment Installment (as defined in the Loan Agreement), payable on the tenth (10th) day of each calendar quarter, plus (ii) monthly payments of accrued interest, payable on the tenth (10th) day of each month. Borrower's final payment for each Term Advance, due on March 31, 2030, shall include all outstanding principal and accrued and unpaid interest under such Term Advance. Once repaid, the Term Advances may not be reborrowed. The interest on the Revolving Facility is payable monthly with the principal outstanding amount due at maturity. The Borrowers also paid facility fees equal to a total amount of \$50,000 on the closing date.

The Borrowers provided a first priority security interest in all existing and future acquired assets owned by the Borrowers. The Loan Agreement contains certain customary covenants that limit the Borrowers' ability to engage in certain transactions. The Loan Agreement also contains customary indemnification obligations and customary events of default, including, among other things, (i) non-payment, (ii) breach of warranty, (iii) non-performance of covenants and obligations, (iv) default on other indebtedness,

(v) judgments, (vi) change of control, (vii) bankruptcy and insolvency and (viii) impairment of assets.

In addition, the Borrower must maintain at all times from the closing date through and including the calendar quarter ended June 30, 2026, (a) unrestricted and unencumbered cash (other than Liens in favor of Lender under the Loan Agreement) held in accounts in the name of Borrower at the Lender equal to at least \$3.0 million measured as of the last day of each calendar month, and (b) a ratio of certain total committed debt to its Annual Recurring Revenue between 0.70 to 0.55, depending on the testing date, measured as of the last day of each calendar quarter. During the period of time commencing on September 30, 2026, and continuing through and including March 31, 2030, Borrower shall maintain (a) a ratio of its aggregate funded indebtedness to its adjusted EBITDA for the prior twelve months of no greater than (i) 2.50 to 1.00 for the calendar quarters commencing September 30, 2026 through and including June 30, 2027, and (ii) 2.00 to 1.00 at all times thereafter, in each case measured as of the last day of each calendar quarter. and (b) a Fixed Charge Coverage Ratio of at least 1.50 to 1.00.

There are no material relationships between the Company and the Lender, other than in respect of the Loan Agreement.

The foregoing description of the Loan Agreement is qualified in its entirety by reference to such document, which is attached hereto as Exhibit 10.1 and is incorporated herein by reference.

Item 1.02 Termination of a Material Definitive Agreement.

In connection with the entry into the Loan Agreement, the Company used the proceeds from the Term A Advance provided thereunder to repay in full all indebtedness, liabilities and other obligations outstanding under, and terminated, the Loan and Security Agreement dated November 30, 2023, among the Company and SG Credit Partners, Inc., a Delaware corporation (the "Prior Loan Agreement"), which provided for a \$7.0 million term loan. On March 31, 2025, the Prior Loan Agreement had an outstanding balance of approximately \$7.3 million, which was repaid in full on that date.

Item 2.03 Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet of a Registrant.

The disclosure required by this Item is included in Item 1.01, which is incorporated herein by reference.

Item 9.01 Financial Statements and Exhibits.

(d) Exhibits:

Exhibit Number	Description
10.1	Loan and Security Agreement, dated as of March 31, 2025, by and among the Company, ADA Site Compliance, LLC, Criterion 508 Solutions, Inc. and Western Alliance Bank.
104	Cover Page Interactive Data File

SIGNATURES

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

April 1, 2025

AudioEye, Inc.
(Registrant)

By /s/ Kelly Georgevich
Name: Kelly Georgevich
Title: Chief Financial Officer

**AUDIOEYE, INC., A DELAWARE CORPORATION, ADA SITE COMPLIANCE, LLC, A DELAWARE
LIMITED LIABILITY COMPANY AND CRITERION 508 SOLUTIONS, INC., AN IOWA CORPORATION**

WESTERN ALLIANCE BANK, AN ARIZONA CORPORATION

LOAN AND SECURITY AGREEMENT

This **Loan And Security Agreement** (this “Agreement”) is entered into as of March 31, 2025, by and among (a) **Western Alliance Bank, an Arizona corporation** (“Bank”) and (b) (i) **AUDIOEYE, INC.**, a Delaware corporation (“AudioEye”), (ii) **ADA SITE COMPLIANCE, LLC**, a Delaware limited liability company (“ADA”), and (iii) **CRITERION 508 SOLUTIONS, INC.**, an Iowa corporation (“Criterion”, together with AudioEye and ADA, individually and collectively, jointly and severally, “Borrower”).

Recitals

Borrower wishes to obtain credit from time to time from Bank, and Bank desires to extend credit to Borrower. This Agreement sets forth the terms on which Bank will advance credit to Borrower, and Borrower will repay the amounts owing to Bank.

Agreement

The parties agree as follows:

1. Definitions and Construction.

1.1 Definitions. As used in this Agreement, the following terms shall have the following definitions:

“Accounts” means all presently existing and hereafter arising accounts, contract rights, payment intangibles, and all other forms of obligations owing to Borrower arising out of the sale or lease of goods (including, without limitation, the licensing of software and other technology) or the rendering of services by Borrower, whether or not earned by performance, and any and all credit insurance, guaranties, and other security therefor, as well as all merchandise returned to or reclaimed by Borrower and Borrower’s Books relating to any of the foregoing.

“Acquisition” is any transaction, or any series of related transactions, consummated on or after the Closing Date, by which Borrower (a) acquires any going business or all or substantially all of the assets of any Person, whether through purchase of assets, merger or otherwise or (b) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the equity interests of a Person which has ordinary voting power for the election of directors or other similar management personnel of a Person (other than equity interests having such power only by reason of the happening of a contingency) or a majority of the outstanding equity interests of a Person.

“ADA” has the meaning set forth in the preamble.

“ADA Indebtedness” is defined in clause (d)(i) of the definition of “Permitted Indebtedness”.

“Adjusted EBIDA” means, with respect to any period of determination, EBDA (without duplication) plus (a) interest expense, as determined in accordance with GAAP, minus (b) (i) capital expenditures, (ii) capitalized software expenses and (iii) cash settlements of equity awards.

“Adjusted EBITDA” means, with respect to any period of determination, EBDA (without duplication) plus (a)(i) interest expense, plus (ii) income tax expense, each as determined in accordance with GAAP, minus (b) (i) capital expenditures, (ii) capitalized software expenses and (iii) cash settlements of equity awards.

“Advance” or “Advances” means a cash advance or cash advances under the Revolving Line.

“Affiliate” means, with respect to any Person, any Person that owns or controls directly or indirectly such Person, any Person that controls or is controlled by or is under common control with such Person, and each of such Person’s senior executive officers, directors, and partners.

“Agreement” has the meaning set forth in the preamble.

“Annual Recurring Revenue” is, for any date of determination, the sum of (a) for the Borrower’s Enterprise Channel, the total of the annualized recurring fee recognized in accordance with GAAP under each active Contract at the date of determination, plus (b) for the Borrower’s Partner and Marketplace Channel, the annual or monthly recurring fee (annualized) recognized in accordance with GAAP for all active customers as of the day of determination, in each case assuming no changes to the subscription.

“AudioEye” has the meaning set forth in the preamble.

“Availability Amount” means the Revolving Line, minus the outstanding principal balance of any Advances.

“Bank” has the meaning set forth in the preamble.

“Bank Expenses” means all: reasonable and documented costs or expenses (including reasonable and documented attorneys’ fees and expenses) incurred in connection with the preparation, negotiation, administration, and enforcement of the Loan Documents; reasonable and documented Collateral audit fees; and Bank’s reasonable and documented attorneys’ fees and expenses incurred in amending, enforcing, or defending the Loan Documents (including fees and expenses of appeal), incurred before, during, and after an Insolvency Proceeding, whether or not suit is brought or any other Event of Default.

“Benchmark Replacement” has the meaning set forth in the definition of “Term SOFR Rate”.

“Benchmark Replacement Conforming Changes” has the meaning set forth in the definition of “Term SOFR Rate”.

“Borrower” has the meaning set forth in the preamble.

“Borrower’s Books” means all of Borrower’s books and records including: ledgers; records concerning Borrower’s assets or liabilities, the Collateral, business operations, or financial condition; and all computer programs, or tape files, and the equipment, containing such information.

“Business Day” means any day that is not a Saturday, Sunday, or other days on which banks in the State of California are authorized or required to close.

“Change in Control” shall mean (i) a transaction in which any “person” or “group” (within the meaning of Section 13(d) and 14(d)(2) of the Securities Exchange Act of 1934), other than David Moradi, becomes the “beneficial owner” (as defined in Rule 13d-3 under the Securities Exchange Act of 1934), directly or indirectly, of more than fifty percent (50.0%) of the shares of all classes of stock or other equity securities, as applicable, then outstanding of AudioEye ordinarily entitled to vote in the election of directors, empowering such “person” or “group” to elect a majority of the board of directors of AudioEye, who did not have such power before such transaction or (ii) AudioEye no longer owns one hundred percent (100.0%) of any other Borrower except pursuant to a transaction otherwise permitted by this Agreement or to the extent consented to in writing by Bank in its sole discretion.

“Closing Date” means the date of this Agreement.

“Code” means the California Uniform Commercial Code, as amended from time to time.

“Collateral” means the property described on **Exhibit A** attached hereto.

“Committed Debt” means, as of any date of determination, the sum of (i) Twenty Million Dollars (\$20,000,000.00), plus (ii) any indebtedness in connection with earn-out payments, contingent considerations, or deferred payment obligations, including the ADA Indebtedness as reflected as a contingent liability in Borrower’s publicly filed financial statements on Form 10-Q or Form 10-K from time to time.

“Committed Debt to ARR Ratio” means, as of any date of determination, (i) the aggregate Committed Debt divided by (ii) Borrower’s Annual Recurring Revenue.

“Community Bank Account” means that certain account of Borrower maintained with Community State Bank ending *****364.

“Contingent Obligation” means, as applied to any Person, any direct or indirect liability, contingent or otherwise, of that Person with respect to (i) any indebtedness, lease, dividend, letter of credit, or other obligation of another; (ii) any obligations with respect to undrawn letters of credit, corporate credit cards, or merchant services issued or provided for the account of that Person; and (iii) all obligations arising under any agreement or arrangement designed to protect such Person against fluctuation in interest rates, currency exchange rates or commodity prices; provided, however, that the term “Contingent Obligation” shall not include endorsements for collection or deposit in the ordinary course of business. The amount of any Contingent Obligation shall be deemed to be an amount equal to the stated or determined amount of the primary obligation in respect of which such Contingent Obligation is made or, if not stated or determinable, the maximum reasonably anticipated liability in respect thereof as determined by Bank in good faith; provided, however, that such amount shall not in any event exceed the maximum amount of the obligations under the guarantee or other support arrangement.

“Contracts” means subscription license contracts, maintenance contracts, and support contracts of Borrower.

“Control Agreement” means any control agreement entered into among the depository institution at which Borrower maintains a deposit account or the securities intermediary or commodity intermediary at which Borrower maintains a securities account or a commodity account, Borrower, and Bank pursuant to which Bank obtains control (within the meaning of the Code) over any such account.

“Copyrights” means any and all copyright rights, copyright applications, copyright registrations, and like protections in each work or authorship and derivative work thereof.

“Credit Extension” means each Advance, each Term Advance, or any other extension of credit by Bank for the benefit of Borrower hereunder.

“Credit Extension Request Form” is that certain form, in the form substantially set forth in **Exhibit B** hereto.

“Criterion” has the meaning set forth in the preamble.

“Criterion Indebtedness” is defined in clause (d)(ii) of the definition of “Permitted Indebtedness”.

“Current Assets” means, as of any applicable date, all amounts that should, in accordance with GAAP, be included as current assets on the consolidated balance sheet of Borrower (calculated on a consolidated basis with respect to Borrower and its Subsidiaries).

“Current Liabilities” means, as of any applicable date, all amounts that should, in accordance with GAAP, be included as current liabilities on the consolidated balance sheet of Borrower (calculated on a consolidated basis with respect to Borrower and its Subsidiaries), as at such date, plus, to the extent not already included therein, all outstanding Credit Extensions made under this Agreement.

“Daily Balance” means the amount of the Obligations owed at the end of a given day.

“Division” means, in reference to any Person which is an entity, the division of such Person into two (2) or more separate Persons, with the dividing Person either continuing or terminating its existence as part of such division, including, without limitation, as contemplated under Section 18-217 of the Delaware Limited Liability Company Act for limited liability companies formed under Delaware law, or any analogous action taken pursuant to any other applicable law with respect to any corporation, limited liability company, partnership, or other entity.

“Draw Period” means the period of time commencing upon the Closing Date and continuing through March 31, 2026.

“EBDA” means, with respect to any period of determination, Borrower’s and its Subsidiaries’ Net Income; plus (without duplication) (i) depreciation and amortization, plus (ii) non-cash expenses and charges deemed by Bank to be extraordinary, plus (iii) non-cash stock compensation, loss on disposal or impairment of long-lived assets and

valuation adjustment to liabilities, plus (iv) any out-of-pocket fees and expenses of Borrower related to any Acquisitions, minus all non-cash gains, non-recurring gains, and extraordinary gains increasing EBDA deemed by Bank to be extraordinary or non-recurring, each as determined in accordance with GAAP.

“Enterprise Channel” means (a) Borrower’s Enterprise channel, which generally speaking, consists of Borrower’s larger customers and organizations, including those with non-platform custom websites, who generally engage directly with Borrowers’ sales personnel for custom pricing and solutions (which channel also includes federal, state and local government agencies) and revenue attributable to ADA Site Compliance and (b) any other channel of Borrower other than the Partner and Marketplace Channel.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended, and the regulations thereunder.

“Event of Default” has the meaning assigned in Article 8.

“Excess Cash Flow” means, for any fiscal year, calculated on a consolidated basis with respect to Borrower and its Subsidiaries, Borrower’s (a) Adjusted EBITDA, minus (b) the sum of the following, to the extent actually paid in cash during such fiscal period, without duplication: (i) all taxes paid (or required to be paid), (ii) cash interest expenses, (iii) mandatory debt principal amortization payments, (iv) without duplication of (iii), other payments constituting the current portion of long-term debt, (v) Permitted Stock Buybacks and any additional stock buybacks approved by Bank in writing in its sole and absolute discretion, (vi) deferred payments or earn-out payments related to the ADA Indebtedness, the Criterion Indebtedness or in connection with any Permitted Acquisition, and (vii) any out-of-pocket fees and expenses of Borrower related to any Acquisitions, plus or minus (c) the change, if any, in Working Capital for such period.

“Facility Fees” has the meaning set forth in Section 2.5(b) hereof.

“Fixed Charge Coverage Ratio” means, as of any date of determination, (a) (i) (A) Adjusted EBIDA as of the last day of such trailing calendar quarter, multiplied by (B) four (4), minus (ii) Permitted Stock Buybacks as of the last day of such trailing twelve (12) month period, divided by (b) (i) (A) interest payments made by Borrower under this Agreement during the trailing calendar quarter, multiplied by (B) four (4), plus (ii) the current portion of long-term debt and any current portion of any indebtedness in connection with earn-out payments, deferred payments or contingent considerations, including the ADA Indebtedness and Criterion Indebtedness.

“Funded Debt” means, at any date, the aggregate principal amount of all Indebtedness of the Borrower and its Subsidiaries (calculated on a consolidated basis with respect to Borrower and its Subsidiaries) at such date, determined in accordance with GAAP, but excluding any liabilities referred to in clause (d) of the definition of “Indebtedness.” For the avoidance of doubt, Funded Debt shall include any indebtedness in connection with earn-out payments, contingent considerations, or deferred payment obligations as reflected as a contingent liability in Borrower’s publicly filed financial statements on Form 10-Q or Form 10-K from time to time.

“Future Earnout Indebtedness” is defined in clause (d)(iii) of the definition of “Permitted Indebtedness”.

“GAAP” means generally accepted accounting principles as in effect from time to time.

“Governmental Approval” means any consent, authorization, approval, order, license, franchise, permit, certificate, accreditation, registration, filing or notice, of, issued by, from or to, or other act by or in respect of, any Governmental Authority.

“Governmental Authority” is any nation or government, any state or other political subdivision thereof, any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory, or administrative functions of or pertaining to government, any securities exchange and any self-regulatory organization.

“Guarantor” is any Person providing a Guaranty in favor of Bank.

“Guaranty” is any guarantee of all or any part of the Obligations, as the same may from time to time be amended, restated, modified or otherwise supplemented.

“Guaranty Documents” has the meaning set forth in Section 8.10 hereof.

“Indebtedness” means (a) all indebtedness for borrowed money or the deferred purchase price of property or services, including, without limitation, reimbursement and other obligations with respect to surety bonds and letters of credit, (b) all obligations evidenced by notes, bonds, debentures or similar instruments, (c) all capital lease obligations and (d) all Contingent Obligations.

“Insolvency Proceeding” means any proceeding commenced by or against any person or entity under any provision of the United States Bankruptcy Code, as amended, or under any other bankruptcy or insolvency law, including assignments for the benefit of creditors, formal or informal moratoria, compositions, extension generally with its creditors, or proceedings seeking reorganization, arrangement, or other relief.

“Intellectual Property Collateral” means all of Borrower’s right, title, and interest in and to the following: Copyrights, Trademarks, and Patents; all trade secrets, all design rights, claims for damages by way of past, present and future infringement of any of the rights included above, all licenses or other rights to use any of the Copyrights, Patents, or Trademarks, and all license fees and royalties arising from such use to the extent permitted by such license or rights; all amendments, renewals, and extensions of any of the Copyrights, Trademarks, or Patents; and all proceeds and products of the foregoing, including, without limitation, all payments under insurance or any indemnity or warranty payable in respect of any of the foregoing.

“Inventory” means all inventory in which Borrower has or acquires any interest, including work in process and finished products intended for sale or lease or to be furnished under a contract of service, of every kind and description now or at any time hereafter owned by or in the custody or possession, actual or constructive, of Borrower, including such inventory as is temporarily out of its custody or possession or in transit and including any returns upon any accounts or other proceeds, including insurance proceeds, resulting from the sale or disposition of any of the foregoing and any documents of title representing any of the above, and Borrower’s Books relating to any of the foregoing.

“Investment” means any beneficial ownership of (including stock, partnership interest, or other securities) any Person, or any loan, advance, or capital contribution to any Person.

“IP Security Agreement” means that certain intellectual property security agreement by and between Borrower and Bank dated as of the Closing Date, as amended, modified, supplemented, and/or restated from time to time.

“IRC” means the Internal Revenue Code of 1986, as amended, and the regulations thereunder.

“Leverage Ratio” means, the ratio, of (a) the aggregate Funded Debt on any date of determination, divided by (b) Adjusted EBITDA for the trailing (12) month period ending as of such date of determination.

“Lien” means any mortgage, lien, deed of trust, charge, pledge, security interest, or other encumbrance.

“Liquidity” means, as of any date of determination, (i)unrestricted and unencumbered cash held in accounts in the name of Borrower at Bank, plus (ii)the unused portion of the Availability Amount.

“Loan Documents” means, collectively, this Agreement, the IP Security Agreement, any Control Agreement, any agreements related to letters of credit, any subordination/intercreditor agreements, any pledge or security agreements, any note or notes executed by Borrower or any other Person, and any other agreement, instrument or document entered into in connection with this Agreement, all as amended, restated, supplemented, or otherwise modified or extended from time to time.

“Material Adverse Effect” means a material adverse effect on (i)the business operations or condition (financial or otherwise) of Borrower and its Subsidiaries taken as a whole or (ii)the ability of Borrower to repay the Obligations or otherwise perform its obligations under the Loan Documents or (iii)the value or priority of Bank’s security interests in the Collateral.

“Monthly Recurring Revenue” means Annual Recurring Revenue as of the end of such measurement period divided by twelve.

“Negotiable Collateral” means all letters of credit of which Borrower is a beneficiary, notes, drafts, instruments, securities, documents of title, and chattel paper, and Borrower’s Books relating to any of the foregoing.

“Net Income” means income after taxes and all other appropriate deductions from revenue according to GAAP.

“Obligations” means all debt, principal, interest, the Facility Fees, Bank Expenses, and other amounts owed to Bank by Borrower pursuant to this Agreement, the Loan Documents, or any other agreement, whether absolute or contingent, due or to become due, now existing, or hereafter arising, including any interest that accrues after the commencement of an Insolvency Proceeding and including any debt, liability, or obligation owing from Borrower to others that Bank may have obtained by assignment or otherwise.

“Partner and Marketplace Channel” means Borrower’s Partner and Marketplace channel, which consists of Borrower’s Content Management System partners, platform & agency partners, authorized resellers and our marketplace and serves small and medium sized businesses who are on a partner or reseller’s web-hosting platform or who purchase Borrower’s solution from Borrower’s marketplace.

“Patents” means all patents, patent applications, and like protections, including, without limitation, improvements, divisions, continuations, renewals, reissues, extensions, and continuations-in-part of the same.

“Periodic Payments” means all installments or similar recurring payments that Borrower may now or hereafter become obligated to pay to Bank pursuant to the terms and provisions of any instrument, or agreement now or hereafter in existence between Borrower and Bank.

“Permitted Acquisition” means any Permitted Term B Acquisition and any other acquisitions consented to by Bank in writing in its sole and absolute discretion.

“Permitted Bank Accounts” has the meaning set forth in Section 6.7(a) hereof.

“Permitted Indebtedness” means:

- (a) Indebtedness of Borrower in favor of Bank arising under this Agreement or any other Loan Document;
- (b) Indebtedness existing on the Closing Date and disclosed in the Schedule;
- (c) Indebtedness secured by a lien described in clause(c)of the defined term “Permitted Liens,” provided (i)such Indebtedness does not exceed the lesser of the cost or fair market value of the equipment financed with such Indebtedness and (ii)such Indebtedness does not exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate at any given time;
- (d) Indebtedness consisting of contingent consideration, earn-out payments and working capital adjustments (i)in connection with the acquisition of ADA (the “**ADA Indebtedness**”), (ii)in connection with the acquisition of Criterion (the “**Criterion Indebtedness**”) and (iii)in connection with any Permitted Acquisition (“**Future Earnout Indebtedness**”); provided that, ADA Indebtedness and Criterion Indebtedness with respect to working capital adjustments shall not exceed Four Hundred Thousand Dollars (\$400,000.00) in the aggregate at any time;

- (e) unsecured Indebtedness with respect to corporate credit cards and merchant services with financial institutions other than Bank, provided that the aggregate amount outstanding of all such unsecured Indebtedness shall not exceed Five Hundred Thousand Dollars (\$500,000.00) at any time;
- (f) Indebtedness consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;
- (g) Indebtedness consisting of the financing of insurance premiums in the ordinary course of business, provided that Indebtedness in connection with such financing arrangements does not exceed Four Hundred Thousand Dollars (\$400,000.00) at any time;
- (h) unsecured Indebtedness to trade creditors incurred in the ordinary course of business; and
- (i) Subordinated Debt.

“Permitted Investment” means:

- (a) Investments existing on the Closing Date disclosed in the Schedule;
- (b) Investments (i)among Borrowers, (ii)among Subsidiaries that are not Borrowers, (iii)by a Subsidiary that is not a Borrower in a Borrower, provided that if the Investment constitutes Indebtedness of the applicable Borrower to such Subsidiary, such Indebtedness shall be subject to an intercompany subordination agreement in form and substance satisfactory to Bank;

(c) Investments consisting of repurchases of equity interests permitted pursuant to Section 7.6;

(d) Investments consisting of the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of Borrower;

(e) Investments (including debt obligations) received in connection with the bankruptcy or reorganization of customers or suppliers and in settlement of delinquent obligations of, and other disputes with, customers or suppliers arising in the ordinary course of business;

(f) Investments consisting of Permitted Stock Buybacks;

(g) Investments consisting of notes receivable of, or prepaid royalties and other credit extensions, to customers and suppliers who are not Affiliates, in the ordinary course of business; provided that this paragraph (g) shall not apply to Investments of Borrower in any Subsidiary;

(h) Investments consisting of deposit or securities accounts (but only to the extent that Borrower is permitted to maintain such accounts pursuant to Section 6.7 of this Agreement) in which, to the extent required pursuant to Section 6.7, Bank has a first priority perfected security interest to the extent required pursuant to the terms of this Agreement;

(i) (i) marketable direct obligations issued or unconditionally guaranteed by the United States of America or any agency or any State thereof maturing within one (1) year from the date of acquisition thereof, (ii) commercial paper maturing no more than one (1) year from the date of creation thereof and currently having rating of at least A-2 or P-2 from either Standard & Poor's Corporation or Moody's Investors Service, (iii) certificates of deposit maturing no more than one (1) year from the date of investment therein issued by Bank and (iv) Bank's money market accounts;

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(j) Investments in Permitted Acquisitions; and

(k) other Investments not otherwise permitted by Section 7.7 not exceeding One Hundred Thousand Dollars (\$100,000.00) in the aggregate at any time.

"Permitted Liens" means the following:

(a) any Liens existing on the Closing Date and disclosed in the Schedule or arising under this Agreement or the other Loan Documents;

(b) Liens for taxes, fees, assessments, or other governmental charges or levies, either not delinquent or being contested in good faith by appropriate proceedings, provided the same have no priority over any of Bank's security interests;

(c) Liens (i) upon or in any equipment which was not financed by Bank, acquired or held by Borrower or any of its Subsidiaries to secure the purchase price of such equipment or indebtedness incurred solely for the purpose of financing the acquisition of such equipment, or (ii) existing on such equipment at the time of its acquisition, provided that the Lien is confined solely to the property so acquired and improvements thereon, and the proceeds of such equipment;

(d) Liens incurred in connection with the extension, renewal, or refinancing of the indebtedness secured by Liens of the type described in clauses (a) through (c) above, provided that any extension, renewal, or replacement Lien shall be limited to the property encumbered by the existing Lien and the principal amount of the indebtedness being extended, renewed, or refinanced does not increase;

(e) Liens of carriers, warehousemen, suppliers, or other Persons that are possessory in nature arising in the ordinary course of business so long as such Liens attach only to Inventory, securing liabilities in the aggregate amount not to exceed One Hundred Thousand Dollars (\$100,000.00) and which are not delinquent or remain payable without penalty or which are being contested in good faith and by appropriate proceedings, which proceedings have the effect of preventing the forfeiture or sale of the property subject thereto;

(f) Liens to secure payment of workers' compensation, employment insurance, old-age pensions, social security, and other like obligations incurred in the ordinary course of business (other than Liens imposed by ERISA);

(g) leases or subleases of real property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), and leases, subleases, non-exclusive licenses, or sublicenses of personal property granted in the ordinary course of Borrower's business (or, if referring to another Person, in the ordinary course of such Person's business), if the leases, subleases, licenses, and sublicenses do not prohibit granting Bank a security interest therein;

(h) non-exclusive licenses of Intellectual Property granted to third parties in the ordinary course of business;

(i) Liens in favor of other financial institutions arising in connection with a Borrower's deposit and/or securities accounts held at such institutions, provided that (i) Bank has a first priority perfected security interest in the amounts held in such deposit and/or securities accounts, and (ii) such accounts are permitted to be maintained pursuant to Section 6.7 of this Agreement;

(j) statutory or common law (non-contractual) Liens of landlords;

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(k) Liens covering Borrower's insurance policies securing obligations in an aggregate amount not to exceed Four Hundred Thousand Dollars (\$400,000.00), in connection with any insurance premium financing described in clause (f) of the defined term "Permitted Indebtedness"; and

(l) Liens arising from attachments or judgments, orders or decrees in circumstances not constituting an Event of Default under Sections 8.4 and 8.7.

"Permitted Stock Buybacks" means repurchases of Borrower's stock in an aggregate amount not to exceed the Permitted Stock Buyback Amount for such fiscal year of Borrower, provided that (i) an Event of Default does not exist at the time of any such repurchase, and would not exist after giving effect to any such repurchase and (ii) Borrower has delivered evidence, satisfactory to Bank in its sole and absolute discretion, that Borrower's Liquidity at the time of any such repurchase, and after giving effect to any such

repurchase, is at least Five Million Dollars (\$5,000,000.00).

“Permitted Stock Buyback Amount” means an aggregate amount not to exceed (i) Three Million Dollars (\$3,000,000.00) for Borrower’s 2025 fiscal year, and (ii) Two Million Dollars (\$2,000,000.00) for Borrower’s 2026 fiscal year and each fiscal year thereafter.

“Permitted Stripe Account” has the meaning set forth in Section 6.7(a) hereof.

“Permitted Term B Acquisition” means a transaction in form and substance acceptable to Bank in all respects and consented to in writing by Bank, whereby Borrower uses proceeds from a Term B Advance to finance an Acquisition.

“Person” means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, firm, joint stock company, estate, entity, or governmental agency.

“Repayment Installment” means, (a) with respect to the period commencing on the Term Loan Amortization Date through and including April 10, 2027 (i) (A) the aggregate principal amount of Term Advances outstanding as of the Term Loan Amortization Date, multiplied by (B) five percent (5.0%), divided by (ii) four (4), (b) with respect to the period commencing on May 10, 2027 through and including April 10, 2028 (i) (A) the aggregate principal amount of Term Advances outstanding as of the Term Loan Amortization Date, multiplied by (B) five percent (5.0%), divided by (ii) four (4), (c) with respect to the period commencing on May 10, 2028 through and including April 10, 2029 (i) (A) the aggregate principal amount of Term Advances outstanding as of the Term Loan Amortization Date, multiplied by (B) five percent (5.0%), divided by (ii) four (4), and (d) with respect to the period commencing on May 10, 2029 through and including March 31, 2030 (i) (A) the aggregate principal amount of Term Advances outstanding as of the Term Loan Amortization Date, multiplied by (B) five percent (5.0%), divided by (ii) four (4).

“Responsible Officer” means each of the Chief Executive Officer, the Chief Operating Officer, the Chief Financial Officer, and the Controller of Borrower.

“Revolving Facility” means the facility under which Borrower may request Bank to issue Advances, as specified in Section 2.1(a) hereof.

“Revolving Line” means a credit extension of up to Three Million Dollars (\$3,000,000.00).

“Revolving Line Facility Fees” has the meaning set forth in Section 2.5(b) hereof.

“Revolving Maturity Date” means March 31, 2030.

“Schedule” means the schedule of exceptions attached hereto and approved by Bank, if any.

“Shares” means one hundred percent (100.00%) of the issued and outstanding capital stock, membership units, or other securities owned or held of record by Borrower in any Subsidiary of Borrower.

“Subordinated Debt” means any debt incurred by Borrower that is subordinated to the debt owing by Borrower to Bank on terms acceptable to Bank (and identified as being such by Borrower and Bank), pursuant to a subordination agreement in form and substance satisfactory to Bank.

“Subsidiary” means any corporation, company or partnership in which (i) any general partnership interest or (ii) more than fifty percent (50%) of the stock or other units of ownership which by the terms thereof has the ordinary voting power to elect the board of directors, managers or trustees of the entity, at the time as of which any determination is being made, is owned by Borrower, either directly or through an Affiliate.

“Term A Advance” has the meaning set forth in Section 2.1(b)(i).

“Term B Advance” and “Term B Advances” each have the meaning set forth in Section 2.1(b)(i).

“Term Advance Facility Fee” has the meaning set forth in Section 2.5(a) hereof.

“Term Loan Amortization Date” means April 10, 2026.

“Term Loan Maturity Date” is March 31, 2030.

“Term SOFR” has the meaning set forth in the definition of “Term SOFR Rate”.

“Term SOFR Rate” means the greater of (a) 2.30% and (b) the 1-month Term SOFR Reference Rate (“Term SOFR”) which is published for loans in United States Dollars by CME Group Benchmark Administration Limited and is obtained by Bank from Bloomberg Financial Services Systems with the code TSFR1M (or, if no longer available, any similar or successor publication selected by Bank). The Term SOFR Rate shall initially be determined on the date that is two U.S. Government Securities Business Days immediately before the date of this Agreement and shall thereafter be adjusted monthly on the first day of each calendar month to be the Term SOFR determined by Bank to be in effect on the date that is two U.S. Government Securities Business Days prior to the first day of each calendar month. “U.S. Government Securities Business Day” means any day except for (i) a Saturday, (ii) a Sunday or (iii) a day on which the Securities Industry and Financial Markets Association recommends that the fixed income departments of its members be closed for the entire day for purposes of trading in United States government securities.

If Bank determines (which determination shall be conclusive absent manifest error) that either of the following has occurred: (i) Term SOFR ceases to exist or is no longer available; or (ii) a public announcement by the regulatory supervisor for the administrator of Term SOFR, or a determination made by Bank, that Term SOFR is no longer representative, then commencing on the next reset date, the interest rate hereunder shall be replaced with such alternate base rate and spread (collectively, “Benchmark Replacement”) as Bank determines in its sole discretion to be most comparable to the then-current interest rate. If the Benchmark Replacement as determined pursuant to this section would be less than 2.30%, the Benchmark Replacement will be deemed to be 2.30% for the purposes of this Agreement and the other Loan Documents.

In connection with the implementation of a Benchmark Replacement, Bank will have the right to make Benchmark Replacement Conforming Changes from time to time and, notwithstanding anything to the contrary herein or in any other Loan Document, any amendments implementing such Benchmark Replacement Conforming Changes will become effective without any further action or consent of Borrower. “Benchmark Replacement Conforming Changes” means, with respect to any Benchmark Replacement, any technical, administrative or operational changes, such as changes to the definitions of “Business Day,” “Interest Period,” or timing and frequency of determining rates and making payments of interest, that Bank decides may be appropriate to reflect the adoption and implementation of such Benchmark Replacement and to permit the administration thereof in a manner substantially consistent with market practice (or, if the Bank decides that adoption of any portion of such market practice is not administratively feasible or if Bank determines that no market practice for the administration of such Benchmark Replacement exists, in such other manner of administration as Bank decides is reasonably necessary in connection with the administration of this Agreement and the other Loan Documents).

“Testing Period A” is the period of time commencing on the Closing Date, and continuing through and including the calendar quarter ended June 30, 2026.

“Testing Period B” is the period of time commencing on September 30, 2026, and continuing through and including March 31, 2030.

“Trademarks” means any trademark and servicemark rights, whether registered or not, applications to register and registrations of the same and like protections, and the entire goodwill of the business of Borrower connected with and symbolized by such trademarks.

“Transfer” has the meaning set forth in Section 7.1.

“Transition Period” is the period of time commencing on the Closing Date and continuing through the earliest to occur of (i) July 29, 2025, or (ii) an Event of Default.

“Working Capital” means, at a particular date, the excess, if any, of Current Assets (excluding cash and cash equivalents) over Current Liabilities at such date.

1.2 Accounting Terms. All accounting terms not specifically defined herein shall be construed in accordance with GAAP, and all calculations made hereunder shall be made in accordance with GAAP. When used herein, the terms “financial statements” shall include the notes and schedules thereto.

2. Loan and Terms of Payment.

2.1 Credit Extensions.

Borrower promises to pay to the order of Bank, in lawful money of the United States of America, the aggregate unpaid principal amount of all Credit Extensions made by Bank to Borrower hereunder. Borrower shall also pay interest on the unpaid principal amount of such Credit Extensions at rates in accordance with the terms hereof.

(a) Revolving Advances.

(i) Subject to and upon the terms and conditions of this Agreement, Borrower may request Advances in an aggregate outstanding amount not to exceed the Availability Amount. Subject to the terms and conditions of this Agreement, amounts borrowed pursuant to this Section 2.1(a) may be repaid and reborrowed at any time prior to the Revolving Maturity Date, at which time all Advances under this Section 2.1(a) shall be immediately due and payable. Borrower may prepay any Advances without penalty or premium.

(ii) Whenever Borrower desires an Advance, Borrower will notify Bank no later than 3:00p.m. Pacific time, on the Business Day that the Advance is to be made. Each such notification shall be made (i) by telephone or in-person followed by written confirmation from Borrower within twenty-four (24) hours, (ii) by electronic mail, or (iii) by delivering to Bank a Credit Extension Request Form in substantially the form of **Exhibit B** hereto. Bank is authorized to make Advances under this Agreement, based upon instructions received from a Responsible Officer or a designee of a Responsible Officer, or without instructions if in Bank's discretion such Advances are necessary to meet Obligations which have become due and remain unpaid. Bank shall be entitled to rely on any notice given by a person who Bank reasonably believes to be a Responsible Officer or a designee thereof, and Borrower shall indemnify and hold Bank harmless for any damages or loss suffered by Bank as a result of such reliance. Bank will credit the amount of Advances made under this Section 2.1(a) to Borrower's deposit account.

(b) Term Advances.

(i) Availability. Subject to and upon the terms and conditions of this Agreement, upon Borrower's request, Bank agrees to make one (1) advance to Borrower (the “Term A Advance”) on the Closing Date, in an original principal amount equal to Twelve Million Dollars (\$12,000,000.00); provided that all or a portion of the Term A Advance shall be used to repay in-full Borrower's outstanding liabilities and obligations to SG Credit Partners. Subject to and upon the terms and conditions of this Agreement, at any time during the Draw Period, Bank agrees to make term loan advances to Borrower (each a “Term B Advance” and collectively, the “Term B Advances”), upon Borrower's request, in an aggregate principal amount not to exceed Five Million Dollars (\$5,000,000.00). The Term A Advance and the Term B Advances are hereinafter referred to singly as a “Term Advance” and, collectively, as the “Term Advances”. Each Term B Advance must be in an amount of not less than One Million Dollars (\$1,000,000.00).

(ii) Repayment. For each Term Advance, Borrower shall pay interest-only payments with respect to such Term Advance in accordance with Section 2.3(c) through the day before the Term Loan Amortization Date. Beginning on the Term Loan Amortization Date, Borrower shall repay each outstanding Term Advance in accordance with Section 2.3(c) in (i) quarterly principal payments in an amount equal to the Repayment Installment, payable on the tenth (10th) day of each calendar quarter, plus (ii) monthly payments of accrued interest, payable on the tenth (10th) day of each month. Borrower's final payment for each Term Advance, due on the Term Loan Maturity Date, shall include all outstanding principal and accrued and unpaid interest under such Term Advance. Once repaid, the Term Advances may not be reborrowed.

(iii) Prepayment.

(A) Voluntary Prepayment. Borrower shall have the option to prepay all, but not less than all, of any Term Advances under this Agreement, provided Borrower (A) deliver written notice to Bank of its election to prepay such Term Advances at least ten (10) days prior to such prepayment and (B) pay, on the date of such prepayment, (1) all outstanding principal with respect to the Term Advances, plus accrued but unpaid interest, plus (2) all fees (including any late fee), and other sums, including Bank Expenses, if any, that shall have become due and payable hereunder.

(B) Mandatory Prepayment upon an Acceleration. If the Term Advances are accelerated after the occurrence of an Event of Default, Borrower shall immediately pay to Bank an amount equal to the sum of (A) all outstanding principal of the Term Advances, plus accrued but unpaid interest (including interest at the default rate), plus (B) all other fees, and other sums, including Bank Expenses, if any, that shall have become due and payable hereunder.

(C) Excess Cash Flow. Within thirty (30) days of delivery to Bank of audited annual financial statements pursuant to Section 6.3(b), and commencing with the delivery to Bank of the financial statements for Borrower's fiscal year ended December 31, 2025 and each fiscal year of Borrower thereafter (provided, if such financial statements are not delivered to Bank on the date such statements are required to be delivered pursuant to Section 6.3(b), then within ten (10) days after the date such statements were required to be delivered to Bank pursuant to Section 6.3(b)), Borrower shall pay Bank a principal payment in an amount equal to the following percentages of Excess Cash Flow with respect to such fiscal year based upon Borrower's applicable Leverage Ratio as a mandatory prepayment on account of the outstanding Obligations of Borrower to Bank:

<u>Leverage Ratio</u>	<u>Percentage of Excess Cash Flow</u>

≥ 2.50:1.00	50.0%
< 2.50:1.00 and ≥ 2.00:1.00	25.0%
< 2.00:1.00	0.0%

(iv) **Procedures for Borrowing.** Whenever a Borrower desires a Term Advance, Borrower will notify Bank no later than 3:00p.m. Pacific time, at least three (3) Business Days prior to the date on which the Term Advance is to be made. Each such notification shall be made (i) by telephone or in-person followed by written confirmation from Borrower within twenty-four (24) hours, (ii) by electronic mail, or (iii) by delivering to Bank a Credit Extension Request Form in substantially the form of **Exhibit B** hereto. Bank shall be entitled to rely on any notice given by a person whom Bank reasonably believes to be a Responsible Officer or a designee thereof, and Borrower shall indemnify and hold Bank harmless for any damages or loss suffered by Bank as a result of such reliance. Bank will credit the amount of each Term Advance made under this Section 2.1(b) to a Borrower's deposit account.

2.2 Reserved

2.3 Interest Rates, Payments, and Calculations.

(a) Interest Rates.

(i) **Advances.** Except as set forth in Section 2.3(b), the Advances under the Revolving Facility shall bear interest, on the outstanding Daily Balance thereof, at a floating rate equal to three and one-quarter of one percent (3.25%) above the Term SOFR Rate.

(ii) **Term Advances.** Except as set forth in Section 2.3(b), the outstanding Term Advances shall bear interest on the outstanding Daily Balance thereof, at a floating rate equal to three and one-quarter of one percent (3.25%) above the Term SOFR Rate.

(b) **Late Fee; Default Rate.** If any payment is not made within ten (10) days after the date such payment is due, Borrower shall pay Bank a late fee equal to the lesser of (i) five percent (5.0%) of the amount of such unpaid amount or (ii) the maximum amount permitted to be charged under applicable law, not in any case to be less than Twenty-Five Dollars (\$25.00). All Obligations shall bear interest, from and after the occurrence and during the continuance of an Event of Default, at a rate equal to five percent (5.0%) above the interest rate applicable immediately prior to the occurrence of the Event of Default, unless Bank agrees in writing in its sole and absolute discretion to impose a lesser increase or no increase.

(c) **Payments.** Interest hereunder shall be due and payable on the tenth (10th) calendar day of each month during the term hereof. Bank shall, at its option, charge such interest, all Bank Expenses, and all Periodic Payments against any of Borrower's deposit accounts or against the Revolving Line, in which case those amounts shall thereafter accrue interest at the rate then applicable hereunder. Any interest not paid when due shall be compounded by becoming a part of the Obligations, and such interest shall thereafter accrue interest at the rate then applicable hereunder. All payments shall be free and clear of any taxes, withholdings, duties, impositions, or other charges, to the end that Bank will receive the entire amount of any Obligations payable hereunder, regardless of source of payment.

(d) **Computation.** In the event the Term SOFR Rate is changed from time to time hereafter, the applicable rate of interest hereunder shall be increased or decreased, on the dates set forth in the definition thereof.

2.4 Crediting Payments.

(a) Prior to the occurrence of an Event of Default, Bank shall credit a wire transfer of funds, check or other item of payment to such deposit account or Obligation as Borrower specifies. After the occurrence of an Event of Default, the receipt by Bank of any wire transfer of funds, check, or other item of payment shall be immediately applied to conditionally reduce Obligations, but shall not be considered a payment on account unless such payment is of immediately available federal funds or unless and until such check or other item of payment is honored when presented for payment. Notwithstanding anything to the contrary contained herein, any wire transfer or payment received by Bank after 12:00 noon Pacific time shall be deemed to have been received by Bank as of the opening of business on the immediately following Business Day. Whenever any payment to Bank under the Loan Documents would otherwise be due (except by reason of acceleration) on a date that is not a Business Day, such payment shall instead be due on the next Business Day, and additional fees or interest, as the case may be, shall accrue and be payable for the period of such extension.

(b) Borrower hereby authorizes Bank to automatically deduct from any deposit account(s) of Borrower with Bank, including without limitation deposit account numbered 2989, the amount of any loan payment. If the funds in the account(s) are insufficient to cover any payment, Bank shall not be obligated to advance funds to cover the payment, and Borrower agrees to pay any applicable fees for this service disclosed in the Schedule of Fees and Charges applicable to Borrower's account(s).

2.5 Fees. Borrower shall pay to Bank the following:

(a) **Term Advance Facility Fee.** On the Closing Date, a facility fee equal to Forty-Two Thousand Five Hundred Dollars (\$42,500.00) in respect of the Term Advances, which shall be deemed fully earned as of the Closing Date (the "**Term Advance Facility Fee**");

(b) **Revolving Line Facility Fees.** On the Closing Date, a facility fee equal to Seven Thousand Five Hundred Dollars (\$7,500.00) in respect of the Revolving Line, and on each anniversary of the Closing Date, each of which shall be deemed fully earned as of the Closing Date (the "**Revolving Line Facility Fees**"; together with the Term Advance Facility Fee, the "**Facility Fees**"; and

(c) **Bank Expenses.** On the Closing Date, all Bank Expenses incurred through the Closing Date, including reasonable attorneys' fees and expenses and, after the Closing Date, all Bank Expenses, including reasonable attorneys' fees and expenses, as and when they are incurred by Bank.

2.6 **Term.** This Agreement shall become effective on the Closing Date and, subject to Section 13.7, shall continue in full force and effect for so long as any Obligations remain outstanding or Bank has any obligation to make Credit Extensions under this Agreement. Notwithstanding the foregoing, Bank shall have the right to terminate its obligation to make Credit Extensions under this Agreement immediately and without notice upon the occurrence and during the continuance of an Event of Default. Notwithstanding termination, Bank's Lien on the Collateral shall remain in effect for so long as any Obligations are outstanding.

3. Conditions of Loans.

3.1 Conditions Precedent to Initial Credit Extension

. The obligation of Bank to make the initial Credit Extension is subject to the condition precedent that Bank shall have received, in form and substance satisfactory to Bank, the following, duly executed by the applicable parties thereto:

- (a) this Agreement;
- (b) a certificate of the Secretary of Borrower with respect to incumbency and resolutions authorizing the execution and delivery of this Agreement;
- (c) UCC National Form Financing Statement;
- (d) the IP Security Agreement;
- (e) agreement to provide insurance and evidence satisfactory to Bank that the insurance policies required by Section 6.6 hereof are in full force and effect;
- (f) payment of the fees and Bank Expenses then due specified in Section 2.5 hereof;
- (g) current financial statements of Borrower;
- (h) an audit of the Collateral, the results of which shall be satisfactory to Bank;
- (i) Intellectual Property search results and completed exhibits to the IP Security Agreement;

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(j) duly executed signature to a payoff letter from SG Credit Partners and evidence that (i) the Liens securing Indebtedness owed by Borrower to SG Credit Partners will be terminated and (ii) the documents and/or filings evidencing the perfection of such Liens, including without limitation any financing statements and/or control agreements, have or will, concurrently with the initial Credit Extension, be terminated;

(k) certified copies, dated as of a recent date, of financing statement searches, as Bank may request, accompanied by written evidence (including any UCC termination statements) that the Liens indicated in any such financing statements either constitute Permitted Liens or have been or, in connection with the initial Credit Extension, will be terminated or released;

- (l) the perfection certificate of Borrower;
- (m) such other documents, and completion of such other matters, as Bank may reasonably deem necessary or appropriate.

3.2 Conditions Precedent to All Credit Extensions

. The obligation of Bank to make each Credit Extension, including the initial Credit Extension, is further subject to the following conditions:

- (a) timely receipt by Bank of the Credit Extension Request Form, as provided in Section 2.1;
- (b) the absence of any circumstance or circumstances that could have a Material Adverse Effect;
- (c) the representations and warranties contained in Section 5 shall be true and correct in all material respects on and as of the date of such Credit Extension Request Form and on the effective date of each Credit Extension as though made at and as of each such date, and no Event of Default shall have occurred and be continuing, or would exist after giving effect to such Credit Extension. The making of each Credit Extension shall be deemed to be a representation and warranty by Borrower on the date of such Credit Extension as to the accuracy of the facts referred to in this Section 3.2; and
- (d) with respect to each Term B Advance, confirmation in writing by Bank, that Borrower has delivered evidence to Bank, satisfactory to Bank in its sole and absolute discretion, that (i) Borrower is in compliance with the financial covenants set forth in Section 6.8 at all times prior to the date such Term B Advance is made and after giving effect to such Term B Advance on a pro-forma basis and (ii) the proceeds of such Term B Advance shall be used solely in connection with a Permitted Term B Acquisition.

3.3 Covenant to Deliver

. Borrower agrees to deliver to Bank each item required to be delivered to Bank under this Agreement as a condition precedent to any Credit Extension. Borrower expressly agrees that a Credit Extension made prior to the receipt by Bank of any such item shall not constitute a waiver by Bank of Borrower's obligation to deliver such item, and the making of any Credit Extension in the absence of a required item shall be in Bank's sole discretion.

4. Creation of Security Interest.

4.1 Grant of Security Interest.

Borrower grants and pledges to Bank a continuing security interest in all presently existing and hereafter acquired or arising Collateral in order to secure prompt repayment of any and all Obligations and in order to secure prompt performance by Borrower of each of its covenants and duties under the Loan Documents. Except as set forth in the Schedule, such security interest constitutes a valid, first-priority security interest in the presently existing Collateral, and will constitute a valid, first-priority security interest in Collateral acquired after the date hereof, in each case, subject to Permitted Liens.

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4.2 Delivery of Additional Documentation Required

. Borrower shall from time to time execute and deliver to Bank, at the request of Bank, all Negotiable Collateral, all financing statements and other documents that Bank may reasonably request, in form satisfactory to Bank, to perfect and continue the perfection of Bank's security interests in the Collateral and in order to fully consummate all of the transactions contemplated under the Loan Documents. Borrower from time to time may deposit with Bank specific time deposit accounts to secure specific Obligations. Borrower authorizes Bank to hold such balances in pledge and to decline to honor any drafts thereon or any request by Borrower or any other Person to pay or otherwise transfer any part of such balances for so long as the Obligations are outstanding.

4.3 Authorization to File Financing Statements

. Borrower hereby authorizes Bank to file financing statements, without notice to Borrower, with all appropriate jurisdictions to perfect or protect Bank's interest or rights hereunder, including a notice that any disposition of the Collateral, by either Borrower or any other Person, shall be deemed to violate the rights of Bank under the Code.

4.4 Right to Inspect

. Bank (through any of its officers, employees, or agents) shall have the right, upon reasonable prior notice, from time to time during

Borrower's usual business hours but no more than once a year (unless an Event of Default has occurred and is continuing), to inspect Borrower's Books and to make copies thereof and to check, test, and appraise the Collateral in order to verify Borrower's financial condition or the amount, condition of, or any other matter relating to, the Collateral.

5. Representations and Warranties.

Borrower represents and warrants as follows:

5.1 Due Organization and Qualification . Borrower and each Subsidiary is a corporation or limited liability company, as applicable, duly existing and in good standing under the laws of its jurisdiction of organization and qualified and licensed to do business in any other jurisdiction in which the conduct of its business or its ownership of property requires that it be so qualified.

5.2 Due Authorization; No Conflict . The execution, delivery, and performance of the Loan Documents are within Borrower's powers, have been duly authorized, and are not in conflict with nor constitute a breach of any provision contained in Borrower's Articles/Certificate of Incorporation or Formation or Bylaws/Operating Agreement, nor will they constitute an event of default under any material agreement to which Borrower is a party or by which Borrower is bound, nor will they contravene, conflict with or violate any applicable order, writ, judgment, injunction, decree, determination, or award of any Governmental Authority by which Borrower or any of Borrower's property or assets may be bound or affected. Borrower is not in default under any material agreement to which it is a party or by which it is bound.

5.3 No Prior Encumbrances. Borrower has good and marketable title to its property, free and clear of Liens, except for Permitted Liens.

5.4 Reserved.

5.5 Merchantable Inventory. All Inventory is in all material respects of good and marketable quality, free from all material defects, except for Inventory for which adequate reserves have been made.

5.6 Collateral and Intellectual Property Collateral . Borrower is the sole owner of the Intellectual Property Collateral, except (i) as stated herein and (ii) for non-exclusive licenses granted by Borrower to its customers in the ordinary course of business. Each of the Patents is valid and enforceable, and no part of the Intellectual Property Collateral has been judged invalid or unenforceable, in whole or in part, and no claim has been made that any part of the Intellectual Property Collateral violates the rights of any third party. Except as set forth in the Schedule, Borrower's rights as a licensee of intellectual property do not give rise to more than five percent (5.0%) of its gross revenue in any given month, including without limitation revenue derived from the sale, licensing, rendering or disposition of any product or service. Except as set forth in the Schedule, Borrower is not a party to, or bound by, any agreement that restricts the grant by Borrower of a security interest in Borrower's rights under such agreement.

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5.7 Name; Location of Chief Executive Office . Except as disclosed in the Schedule, Borrower has not done business under any name other than that specified on the signature page hereof. The chief executive office of Borrower is located at the address indicated in Section 10 hereof. Except as disclosed in the Schedule, all of Borrower's Inventory and Equipment is located only at the location set forth in Section 10 hereof.

5.8 Litigation. Except as set forth in the Schedule, there are no actions or proceedings pending by or against Borrower or any Subsidiary before any court or administrative agency in which an adverse decision could have a Material Adverse Effect, or a material adverse effect on Borrower's interest or Bank's security interest in the Collateral.

5.9 No Material Adverse Change in Financial Statements. All consolidated and consolidating financial statements related to Borrower and any Subsidiary that Bank has received from Borrower fairly present in all material respects Borrower's financial condition as of the date thereof and Borrower's consolidated and consolidating results of operations for the period then ended. There has not been a material adverse change in the consolidated or the consolidating financial condition of Borrower since the date of the most recent of such financial statements submitted to Bank.

5.10 Solvency, Payment of Debts. Borrower is solvent and able to pay its debts (including trade debts) as they mature.

5.11 Regulatory Compliance. Borrower and each Subsidiary have met the minimum funding requirements of ERISA with respect to any employee benefit plans subject to ERISA, and no event has occurred resulting from Borrower's failure to comply with ERISA that could result in Borrower's incurring any material liability. Borrower is not an "investment company" or a company "controlled" by an "investment company" within the meaning of the Investment Company Act of 1940. Borrower is not engaged principally, or as one of the important activities, in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulations T and U of the Board of Governors of the Federal Reserve System). Borrower has complied with all the provisions of the Federal Fair Labor Standards Act. Borrower has not violated any statutes, laws, ordinances or rules applicable to it, violation of which could have a Material Adverse Effect. Neither Borrower nor any of its Subsidiaries is in violation in any material respect of any applicable requirement of law relating to terrorism or money laundering, including Executive Order No. 13224, effective September 24, 2001, The Currency and Foreign Transactions Reporting Act (also known as the "Bank Secrecy Act," 31 U.S.C. §§ 5311-5330), the Trading With the Enemy Act (50 U.S.C. §§ 1-44, as amended), the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001, Public Law 107-56, signed into law October 26, 2001, the Criminal Justice (Money Laundering and Terrorist Financing) Act 2010 as amended and the Criminal Justice (Terrorist Offences) Act 2005.

5.12 Environmental Condition. Except as disclosed in the Schedule, none of Borrower's or any Subsidiary's properties or assets has ever been used by Borrower or any Subsidiary or, to the best of Borrower's knowledge, by previous owners or operators, in the disposal of, or to produce, store, handle, treat, release, or transport any hazardous waste or hazardous substance other than in accordance with applicable law; to the best of Borrower's knowledge, none of Borrower's properties or assets has ever been designated or identified in any manner pursuant to any environmental protection statute as a hazardous waste or hazardous substance disposal site, or a candidate for closure pursuant to any environmental protection statute; no lien arising under any environmental protection statute has attached to any revenues or to any real or personal property owned by Borrower or any Subsidiary; and neither Borrower nor any Subsidiary has received a summons, citation, notice, or directive from the Environmental Protection Agency or any other federal, state or other governmental agency concerning any action or omission by Borrower or any Subsidiary resulting in the releasing, or otherwise disposing of hazardous waste or hazardous substances into the environment.

5.13 Taxes. Borrower and each Subsidiary have filed or caused to be filed all tax returns required to be filed, and have paid, or have made adequate provision for the payment of, all taxes reflected therein, except (a) to the extent such taxes are being contested in good faith by appropriate proceedings promptly instituted and diligently conducted, so long as such reserve or other appropriate provision, if any, as shall be required in conformity with GAAP shall have been made therefor, or (b) if such taxes, assessments, deposits and contributions do not, individually or in the aggregate, exceed One Hundred Thousand Dollars (\$100,000.00).

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5.14 Subsidiaries. Borrower does not own any stock, partnership interest, or other equity securities of any Person, except for Permitted Investments.

5.15 Government Consents

. Borrower and each Subsidiary have obtained all material consents, approvals and authorizations of, made all declarations or filings with, and given all notices to, all Governmental Authorities that are necessary for the continued operation of Borrower's business as currently conducted.

5.16

Accounts. Except to the extent permitted by Section 6.7 hereof, none of Borrower's nor any Subsidiary's property is maintained or invested with a Person other than Bank.

5.17

Full Disclosure. No representation, warranty or other statement made by Borrower in any certificate or written statement furnished to Bank contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained in such certificates or statements not misleading.

6. Affirmative Covenants.

Borrower shall do all of the following:

6.1 Good Standing

. Borrower shall maintain its and each of its Subsidiaries' corporate or limited liability company, as applicable, existence and good standing in its jurisdiction of organization and maintain qualification in each jurisdiction in which it is required under applicable law, except jurisdictions where the failure to be so qualified could not reasonably be expected to have a material adverse effect on Borrower's business or operations. Borrower shall maintain, and shall cause each of its Subsidiaries to maintain, in force all licenses, approvals and agreements, the loss of which could have a Material Adverse Effect.

6.2

Government Compliance. Borrower shall meet, and shall cause each Subsidiary to meet, the minimum funding requirements of ERISA with respect to any employee benefit plans subject to ERISA. Borrower shall comply, and shall cause each Subsidiary to comply, with all statutes, laws, ordinances and government rules and regulations to which it is subject, noncompliance with which could have a Material Adverse Effect.

6.3

Financial Statements, Reports, Certificates. Borrower shall deliver the following to Bank:

(a) as soon as available, but in any event within thirty (30) days after the end of each calendar month, (i) a company-prepared consolidated balance sheet, income statement, and cash flow statement covering Borrower's consolidated operations during such period, prepared in accordance with GAAP, consistently applied, in a form acceptable to Bank and certified by a Responsible Officer and (ii) a Compliance Certificate signed by a Responsible Officer in substantially the form of **Exhibit C** hereto;

(b) as soon as available, but in any event within one hundred eighty (180) days after the end of Borrower's fiscal year, audited consolidated financial statements of Borrower prepared in accordance with GAAP, consistently applied, together with an unqualified opinion (other than any qualification related to any pending maturity date of the Credit Extensions) on such financial statements by Malone Bailey, LLP or any other independent certified public accounting firm reasonably acceptable to Bank;

(c) copies of all statements, reports and notices sent or made available generally by Borrower to its security holders or to any holders of Subordinated Debt and, copies of the Form 10-K Annual Report, Form 10-Q Quarterly Report and Form 8-K Current Report for Borrower within ten (10) days of the date of filing with the Securities and Exchange Commission;

(d) promptly upon receipt of notice thereof, a report of any legal actions pending or threatened against Borrower or any Subsidiary that could result in damages or costs to Borrower or any Subsidiary of Three Hundred Thousand Dollars (\$300,000.00) or more;

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(e) such budgets, sales projections, operating plans, or other financial information as Bank may reasonably request from time to time;

(f) within thirty (30) days after the end of each month, (i) a Monthly Recurring Revenue and Annual Recurring Revenue report by customer, (ii) a key performance indicators report, and (iii) a monthly churn report, each in form and substance satisfactory to Bank;

(g) annual operating budget (including income statement, balance sheet, and cash flow statement presented in a monthly format) approved by Borrower's board of directors and in form and substance acceptable to Bank and confirmed in writing by Bank and Borrower shall specify the assumptions used in creating the budget. Annual operating budgets shall, in any case, be provided to Bank no later than thirty (30) days after the end of each fiscal year of Borrower;

(h) within thirty (30) days after the end of each calendar month, Borrower shall deliver to Bank, a detailed aging of Borrower's accounts receivable by invoice date, and a detailed aging of Borrower's accounts payable by invoice date, each in form and substance satisfactory to Bank;

(i) promptly, upon sending or receipt, copies of any management letters and correspondence relating to management letters, sent or received by Borrower to or from Borrower's auditor. If no management letter is prepared, Borrower shall, upon Bank's request, use commercially reasonable efforts to obtain a letter from such auditor stating that no deficiencies were noted that would otherwise be addressed in a management letter;

(j) as soon as possible, notice of the occurrence of any default or Event of Default; and

(k) promptly upon Bank's request, such other books, records, statements, lists of property and accounts, budgets, forecasts, or reports as to Borrower and as to each guarantor of Borrower's obligations to Bank as Bank may request.

Bank shall have a right from time to time hereafter to audit Borrower's Accounts and appraise Collateral at Borrower's expense, provided that such audits will be conducted no more often than every twelve (12) months unless an Event of Default has occurred and is continuing.

6.4

Inventory; Returns. Borrower shall keep all Inventory in good and marketable condition, free from all material defects except for Inventory for which adequate reserves have been made. Returns and allowances, if any, as between Borrower and its account debtors shall be on the same basis and in accordance with the usual customary practices of Borrower, as they exist at the time of the execution and delivery of this Agreement. Borrower shall promptly notify Bank of all returns and recoveries and of all disputes and claims, where the return, recovery, dispute or claim involves more than Fifty Thousand Dollars (\$50,000.00).

6.5

Taxes. Borrower shall make, and shall cause each Subsidiary to make, due and timely payment or deposit of all material federal, state, and local taxes, assessments, or contributions required of it by law, and will execute and deliver to Bank, on demand, appropriate certificates attesting to the payment or deposit thereof; and Borrower will make, and will cause each Subsidiary to make, timely payment or deposit of all material tax payments and withholding taxes required of it by applicable laws, including, but not limited to, those laws concerning F.I.C.A., F.U.T.A., state disability, and local, state, and federal income taxes, and will, upon request, furnish Bank with proof satisfactory to Bank indicating that Borrower or a Subsidiary has made such payments or deposits; provided that Borrower or a Subsidiary need not make any payment if the amount or validity of such payment is contested in good faith by appropriate proceedings and is reserved against (to the extent required by GAAP) by Borrower.

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6.6 Insurance.

(a) Borrower, at its expense, shall keep the Collateral insured against loss or damage by fire, theft, explosion, sprinklers, and all other hazards and risks, and in such amounts, as ordinarily insured against by other owners in similar businesses conducted in the locations where Borrower's business is conducted on the date hereof. Borrower shall also maintain insurance relating to Borrower's business, ownership, and use of the Collateral in amounts and of a type that are customary to businesses similar to Borrower's.

(b) All such policies of insurance shall be in such form, with such companies, and in such amounts as are reasonably satisfactory to Bank. All such policies of property insurance shall contain a lender's loss payable endorsement, in a form satisfactory to Bank, showing Bank as a lender loss payee thereof, and all liability insurance policies shall show Bank as an additional insured and shall specify that the insurer must give at least thirty (30) days' notice to Bank before canceling its policy for any reason. Upon Bank's request, Borrower shall deliver to Bank certified copies of such policies of insurance and evidence of the payments of all premiums therefor. All proceeds payable under any such policy shall, at the option of Bank, be payable to Bank to be applied on account of the Obligations. Notwithstanding the foregoing, (a) so long as no Event of Default has occurred and is continuing, Borrower shall have the option of applying the proceeds of any casualty policy up to Two Hundred Thousand Dollars (\$200,000.00) in the aggregate for all losses under all casualty policies in any twelve (12) month period, toward the replacement or repair of destroyed or damaged property; provided that any such replaced or repaired property (i) shall be of equal or like value as the replaced or repaired Collateral and (ii) shall be deemed Collateral in which Bank has been granted a first priority security interest (subject to Permitted Liens), and (b) after the occurrence and during the continuance of an Event of Default, all proceeds payable under such casualty policy shall, at the option of Bank, be payable to Bank on account of the Obligations then due.

6.7 Accounts.

(a) Borrower shall (i) maintain and shall cause each of its Subsidiaries to maintain all of its depository, operating, and investment accounts with Bank and (ii) endeavor to utilize and shall cause each of its Subsidiaries to endeavor to utilize Bank's International Banking Division for any international banking services required by Borrower, including, but not limited to, foreign currency wires, hedges, swaps, fx contracts, and letters of credit. Any Guarantor shall maintain all depository, operating and securities/investment accounts with Bank and Bank's Affiliates. Notwithstanding the foregoing, (a) Borrower shall be permitted to maintain accounts with financial institutions other than Bank (the "**Permitted Bank Accounts**") provided that (i) the maximum aggregate balance in the Permitted Bank Accounts (for all such accounts) shall not exceed (A) at all times prior to the expiration of the Transition Period, fifty percent (50.0%) of the Dollar value of all of Borrower's and its Subsidiaries' accounts, in each case, at all financial institutions, wherever located and (B) at all times after the expiration of the Transition Period, ten percent (10.0%) of the Dollar value of all of Borrower's and its Subsidiaries' accounts, in each case, at all financial institutions, wherever located and (ii) the Permitted Bank Accounts shall be subject to a Control Agreement in favor of Bank pursuant to the terms of Section 6.7(b) and Section 6.14 hereof and (b) Borrower shall be permitted to maintain one (1) account with Stripe (the "**Permitted Stripe Account**"), provided that Borrower shall transfer any and all funds deposited into the Permitted Stripe Account into an account of Borrower maintained with Bank within three (3) Business Days after such deposit into the Permitted Stripe Account. In addition to the foregoing, upon the occurrence of an Event of Default, Borrower shall transfer, within thirty (30) days of such Event of Default, any and all funds in the Permitted Bank Accounts to an account of Borrower with Bank.

(b) In addition to and without limiting the restrictions in (a), Borrower shall provide Bank five (5) days prior written notice before establishing any banking or investment account at or with any bank or financial institution other than Bank or Bank's Affiliates. Subject to the terms of Section 6.14, for each banking or investment account that Borrower at any time maintains, Borrower shall cause the applicable bank or financial institution (other than Bank) at or with which any such account is maintained to execute and deliver a Control Agreement or other appropriate instrument with respect to such account to perfect Bank's Lien in such account in accordance with the terms hereunder which Control Agreement may not be terminated without the prior written consent of Bank. The provisions of the previous sentence shall not apply to (i) the Permitted Stripe Account, (ii) the Community Bank Account solely to the extent that the aggregate amount of funds maintained in the Community Bank Account does not exceed Fifty Thousand Dollars (\$50,000.00) at any time (and, if such aggregate amount exceeds Fifty Thousand Dollars (\$50,000.00) in the aggregate at any time, the provisions of the previous sentence shall apply and a Control Agreement shall be required) and (iii) deposit accounts exclusively used for payroll, payroll taxes, and other employee wage and benefit payments to or for the benefit of Borrower's employees and identified to Bank by Borrower as such (and which do not (and will not at any time) contain deposits in an aggregate amount greater than the amount equal to Borrower's ordinary, current and necessary payroll for one (1) payroll period).

6.8 Financial Covenants.

(a) Minimum Cash. Borrower shall maintain at all times during Testing Period A, measured as of the last day of each calendar month, unrestricted and unencumbered cash (other than Liens in favor of Bank under this Agreement) held in accounts in the name of Borrower at Bank equal to at least Three Million Dollars (\$3,000,000.00).

(b) Committed Debt to ARR Ratio. During Testing Period A, the Committed Debt to ARR Ratio, measured as of the last day of each calendar quarter, shall not exceed the following:

<u>Period Ending</u>	<u>Committed Debt to ARR Ratio</u>
March 31, 2025	0.70x
June 30, 2025	0.70x
September 30, 2025	0.65x
December 31, 2025	0.60x
March 31, 2026	0.60x
June 30, 2026	0.55x

(c) Maximum Total Leverage. During Testing Period B, Borrower's Leverage Ratio, measured as of the last day of each calendar quarter, shall not at any time exceed (i) for the calendar quarters commencing September 30, 2026 through and including June 30, 2027, 2.5x. and (ii) at all times thereafter, 2.0x.

(d) Fixed Charge Coverage Ratio. Borrower shall maintain at all times during Testing Period B, measured as of the last day of each calendar quarter, a Fixed Charge Coverage Ratio of at least 1.50x.

6.9 Intellectual Property Rights.

(a) Borrower shall promptly give Bank written notice of any applications or registrations of intellectual property rights filed with the United States Patent and Trademark Office, including the date of such filing and the registration or application numbers, if any. Borrower shall (i) give Bank not less than 30 days prior written notice of the filing of any applications or registrations with the United States Copyright Office, including the title of such intellectual property rights to be registered, as such title

will appear on such applications or registrations, and the date such applications or registrations will be filed, and (ii) prior to the filing of any such applications or registrations, shall execute such documents as Bank may reasonably request for Bank to maintain its perfection in such intellectual property rights to be registered by Borrower, and upon the request of Bank, shall file such documents simultaneously with the filing of any such applications or registrations. Upon filing any such applications or registrations with the United States Copyright Office, Borrower shall promptly provide Bank with (i) a copy of such applications or registrations, without the exhibits, if any, thereto, (ii) evidence of the filing of any documents requested by Bank to be filed for Bank to maintain the perfection and priority of its security interest in such intellectual property rights, and (iii) the date of such filing.

(b) Bank may audit Borrower's Intellectual Property Collateral to confirm compliance with this Section, provided such audit may not occur more often than twice per year, unless an Event of Default has occurred and is continuing. Bank shall have the right, but not the obligation, to take, at Borrower's sole expense, any actions that Borrower is required under this Section to take but which Borrower fails to take, after fifteen (15) days' notice to Borrower. Borrower shall reimburse and indemnify Bank for all reasonable costs and reasonable expenses incurred in the reasonable exercise of its rights under this Section.

6.10 Use of Proceeds . Borrower shall use the proceeds of the Credit Extensions solely (i) to repay in-full Borrower's outstanding liabilities and obligations with SG Credit Partners, (ii) for Permitted Term B Acquisitions; provided that, Advances shall not be used for earn-out payments or other deferred considerations related to any Permitted Term B Acquisitions, Permitted Stock Buybacks or ADA Indebtedness and (iii) as growth capital, working capital or general corporate purposes in order to fund its general business requirements in accordance with the provisions of this Agreement, and not for personal, family, household, or agricultural purposes.

6.11 Landlord Waivers; Bailee Waivers . In the event that Borrower or any of its Subsidiaries, after the Closing Date, intends to add any new offices or business locations, including warehouses, or otherwise store any portion of the Collateral with, or deliver any portion of the Collateral to, a bailee, in each case pursuant to Section 7.2, then Borrower or such Subsidiary will, in the event that the Collateral at any new location is valued in excess of Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate, use commercially reasonable efforts to cause such bailee or landlord, as applicable, to execute and deliver a bailee waiver or landlord waiver, as applicable, in form and substance reasonably satisfactory to Bank prior to the addition of any new offices or business locations, or any such storage with or delivery to any such bailee, as the case may be.

6.12 Formation or Acquisition of Subsidiaries . Notwithstanding and without limiting the negative covenants contained in Sections 7.3 and 7.7 hereof, at the time that Borrower or any Guarantor forms any direct or indirect Subsidiary or acquires any direct or indirect Subsidiary after the Closing Date, Borrower and such Guarantor shall (a) cause such new Subsidiary to provide to Bank a joinder to this Agreement to become a co-borrower hereunder, or a Guaranty to become a Guarantor hereunder, at Bank's discretion, together with such appropriate financing statements and/or Control Agreements, all in form and substance satisfactory to Bank (including being sufficient to grant Bank a first priority Lien (subject to Permitted Liens) in and to the assets of such newly formed or acquired Subsidiary), (b) provide to Bank appropriate certificates and powers and financing statements, pledging all of the direct or beneficial ownership interest in such new Subsidiary, in form and substance satisfactory to Bank; and (c) provide to Bank all other documentation in form and substance satisfactory to Bank, including (at Bank's election) one (1) or more opinions of counsel satisfactory to Bank, which in its opinion is appropriate with respect to the execution and delivery of the applicable documentation referred to above. Any document, agreement, or instrument executed or issued pursuant to this Section 6.12 shall be a Loan Document.

6.13 Further Assurances . At any time and from time to time, Borrower shall execute and deliver such further instruments and take such further action as may reasonably be requested by Bank to effect the purposes of this Agreement.

6.14 Post-Closing Deliverables . Borrower shall deliver to Bank within (i) thirty (30) days of the Closing Date, evidence satisfactory to Bank that the insurance endorsements required by Section 6.6 hereof are in full force and effect, together with appropriate evidence showing lender loss payable and/or additional insured clauses or endorsements in favor of Bank, (ii) within ninety (90) days of the Closing Date, a Control Agreement with respect to any Permitted Bank Account, (iii) ninety (90) days of the Closing Date, UCC-3 financing statements with respect to the UCC-1 financing statements listed in the Schedule and (iv) within fifteen (15) days of the Closing Date, a foreign qualification certificate for AudioEye from the Secretary of State of the State of Illinois.

7. Negative Covenants.

Borrower will not do any of the following:

7.1 Dispositions . Convey, sell, lease, transfer or otherwise dispose of (including, without limitation, pursuant to a Division) (collectively, a "Transfer"), or permit any of its Subsidiaries to Transfer, all or any part of its business or property, other than: (i) Transfers of Inventory and any reports and feedback generated by software or services, in each case, in the ordinary course of business; (ii) Transfers of non-exclusive licenses and similar arrangements for the use of the property of Borrower or its Subsidiaries in the ordinary course of business; (iii) Transfers of worn-out or obsolete Equipment which was not financed by Bank; (iv) Transfers consisting of the sale or issuance of any stock of Borrower permitted under Section 7.2 of this Agreement; (v) Transfers consisting of Permitted Investments; (vi) Transfers consisting of Borrower's use or transfer of money or cash equivalents in a manner that is not prohibited by the terms of this Agreement or the other Loan Documents; and (vii) other Transfers not otherwise permitted under this Section 7.1 of non-material property with a value not to exceed Two Hundred Fifty Thousand Dollars (\$250,000.00) in the aggregate in any twelve (12) month period.

7.2 Change in Business; Change in Control or Executive Office . Engage in any business, or permit any of its Subsidiaries to engage in any business, other than the businesses currently engaged in by Borrower and any business substantially similar or related thereto (or incidental thereto); or cease to conduct business in the manner conducted by Borrower as of the Closing Date; or suffer or permit a Change in Control; or without thirty (30) days prior written notification to Bank, relocate its chief executive office or state of organization or change its legal name; or without Bank's prior written consent, change the date on which its fiscal year ends.

7.3 Mergers or Acquisitions . Other than any Permitted Acquisitions, merge or consolidate, or permit any of its Subsidiaries to merge or consolidate, with or into any other business organization, or acquire, or permit any of its Subsidiaries to acquire, all or substantially all of the capital stock, equity securities, or property of another Person (including, without limitation, pursuant to a Division).

7.4 Indebtedness . Create, incur, assume or be or remain liable with respect to any Indebtedness, or permit any Subsidiary so to do, other than Permitted Indebtedness.

7.5 Encumbrances . Create, incur, assume, or suffer to exist any Lien with respect to any of its property (including without limitation, its Intellectual Property Collateral), or assign or otherwise convey any right to receive income, including the sale of any Accounts, or permit any of its Subsidiaries to do so, except for Permitted Liens, or agree with any Person other than Bank not to grant a security interest in, or otherwise encumber, any of its property (including without limitation, its Intellectual Property Collateral), or permit any Subsidiary to do so.

7.6 Distributions . Pay any dividends or make any other distribution or payment on account of or in redemption, retirement, or purchase of any capital

stock, or permit any of its Subsidiaries to do so, except for (i)the Permitted Stock Buyback, (ii)the repurchase the stock of former employees pursuant to stock repurchase agreements in an aggregate amount not to exceed One Hundred Thousand Dollars (\$100,000.00) during any twelve (12) month period, as long as an Event of Default does not exist prior to such repurchase or would not exist after giving effect to such repurchase and (iii)any transactions where shares of AudioEye are surrendered to AudioEye by its employees to satisfy tax withholding obligations with the settlement of restricted stock units or the issuance of restricted stock.

7.7 Investments. Directly or indirectly acquire or own, or make any Investment in or to any Person, or permit any of its Subsidiaries so to do, other than Permitted Investments; or maintain or invest any of its property with a Person other than Bank or permit any of its Subsidiaries to do so unless such Person has entered into a Control Agreement with Bank in form and substance satisfactory to Bank; or suffer or permit any Subsidiary to be a party to, or be bound by, an agreement that restricts such Subsidiary from paying dividends or otherwise distributing property to Borrower.

7.8 Transactions with Affiliates . Directly or indirectly enter into or permit to exist any material transaction with any Affiliate of Borrower except for transactions that are in the ordinary course of Borrower's business, upon fair and reasonable terms that are no less favorable to Borrower than would be obtained in an arm's length transaction with a non-affiliated Person.

7.9 Subordinated Debt . Make any payment in respect of any Subordinated Debt, or permit any of its Subsidiaries to make any such payment, except in compliance with the terms of such Subordinated Debt, or amend any provision contained in any documentation relating to the Subordinated Debt without Bank's prior written consent. For the abundance of caution, in no event shall Borrower make any payment under any Subordinated Debt if an Event of Default has occurred and is continuing or would occur as a result of such payment.

7.10 Inventory and Equipment . Store the Inventory or the Equipment with a bailee, warehouseman, or other third party unless the third party has been notified of Bank's security interest and Bank (a) has received an acknowledgment from the third party that it is holding or will hold the Inventory or Equipment for Bank's benefit or (b)is in pledge possession of the warehouse receipt, where negotiable, covering such Inventory or Equipment. Store or maintain any Equipment or Inventory at a location other than the location set forth in Section 10 of this Agreement (as may be updated in accordance with Section 7.2 hereof) or as permitted pursuant to Section 6.11 hereof.

7.11 Compliance. Become an "investment company" or be controlled by an "investment company," within the meaning of the Investment Company Act of 1940, or become principally engaged in, or undertake as one of its important activities, the business of extending credit for the purpose of purchasing or carrying margin stock, or use the proceeds of any Credit Extension for such purpose. Fail to meet the minimum funding requirements of ERISA, permit a Reportable Event or Prohibited Transaction, as defined in ERISA, to occur, fail to comply with the Federal Fair Labor Standards Act or violate any law or regulation, which violation could have a Material Adverse Effect, or a material adverse effect on the Collateral or the priority of Bank's Lien on the Collateral, or permit any of its Subsidiaries to do any of the foregoing.

7.12 Capital Expenditures. Make or contract to make, without Bank's prior written consent, capital expenditures, including leasehold improvements but expressly excluding any internally developed software and any expenditures relating to any Acquisition, in any fiscal year in an amount exceeding Three Hundred Thousand Dollars (\$300,000.00).

8. Events of Default.

Any one (1) or more of the following events shall constitute an Event of Default by Borrower under this Agreement:

8.1 Payment Default. If Borrower fails to pay, when due, any of the Obligations;

8.2 Covenant Default.

(a) If Borrower fails to perform any obligation under Article 6 (other than Section 6.1, Section 6.2, and Section 6.4) or violates any of the covenants contained in Article 7 of this Agreement; or

(b) If Borrower fails or neglects to perform or observe any obligation under Section 6.1, Section 6.2, and Section 6.4 or any other material term, provision, condition, covenant contained in this Agreement, in any of the Loan Documents, or in any other present or future agreement between Borrower and Bank and as to any default under such other term, provision, condition or covenant that can be cured, has failed to cure such default within ten (10) days after Borrower receives notice thereof or any officer of Borrower becomes aware thereof; provided, however, that if the default cannot by its nature be cured within the ten (10) day period or cannot after diligent attempts by Borrower be cured within such ten (10) day period, and such default is likely to be cured within a reasonable time, then Borrower shall have an additional reasonable period (which shall not in any case exceed thirty (30) days) to attempt to cure such default, and within such reasonable time period the failure to have cured such default shall not be deemed an Event of Default but no Credit Extensions will be made.

8.3 Governmental Approval. Any Governmental Approval issued to Borrower shall have been revoked, rescinded, suspended, modified in an adverse manner or not renewed for a full term, and such revocation, rescission, suspension, modification or non-renewal has had, or could reasonably be expected to have, a Material Adverse Effect;

8.4 Attachment. If any portion of Borrower's assets is attached, seized, subjected to a writ or distress warrant, or is levied upon, or comes into the possession of any trustee, receiver, or person acting in a similar capacity and such attachment, seizure, writ, or distress warrant or levy has not been removed, discharged or rescinded within ten (10) days, or if Borrower is enjoined, restrained, or in any way prevented by court order from continuing to conduct all or any material part of its business affairs, or if a judgment or other claim becomes a lien or encumbrance upon any material portion of Borrower's assets, or if a notice of lien, levy, or assessment is filed of record with respect to any of Borrower's assets by the United States Government, or any department, agency, or instrumentality thereof, or by any state, county, municipal, or governmental agency, and the same is not paid within ten (10) days after Borrower receives notice thereof, provided that none of the foregoing shall constitute an Event of Default where such action or event is stayed or an adequate bond has been posted pending a good faith contest by Borrower (provided that no Credit Extensions will be required to be made during such cure period);

8.5 Insolvency. If Borrower becomes insolvent, or if an Insolvency Proceeding is commenced by Borrower, or if an Insolvency Proceeding is commenced against Borrower and is not dismissed or stayed within forty-five (45) days (provided that no Credit Extensions will be made prior to the dismissal of such Insolvency Proceeding);

8.6 Other Agreements . If there is a default or other failure to perform in any agreement to which Borrower or any Guarantor is a party or by which it is bound resulting in a right by a third party or parties, whether or not exercised, to accelerate the maturity of any Indebtedness in an amount in excess of Two Hundred Thousand Dollars (\$200,000.00) or which could have a Material Adverse Effect;

8.7 Judgments. If a judgment or judgments for the payment of money in an amount, individually or in the aggregate, of at least Two Hundred Thousand Dollars (\$200,000.00) (not covered by independent third-party insurance as to which liability has been accepted by such insurance carrier) shall be rendered against Borrower and shall remain unsatisfied and unstayed for a period of ten (10) days (provided that no Credit Extensions will be made prior to the satisfaction or stay of such judgment);

8.8 Misrepresentations. If any material misrepresentation or material misstatement exists now or hereafter in any warranty or representation set forth herein or in any certificate delivered to Bank by any Responsible Officer pursuant to this Agreement or to induce Bank to enter into this Agreement or any other Loan Document;

8.9 Subordinated Debt. Any document, instrument, or agreement evidencing the subordination of any Subordinated Debt shall for any reason be revoked or invalidated or otherwise cease to be in full force and effect, any Person shall be in breach thereof or contest in any manner the validity or enforceability thereof or deny that it has any further liability or obligation thereunder, or the Obligations shall for any reason be subordinated or shall not have the priority contemplated by this Agreement or any applicable subordination or intercreditor agreement; or

8.10 Guaranty. If any guaranty of all or a portion of the Obligations ceases for any reason to be in full force and effect, or any Guarantor fails to perform any obligation under any Guaranty or a security agreement securing any Guaranty (collectively, the "Guaranty Documents"), or any event of default occurs under any Guaranty Document or any Guarantor revokes or purports to revoke a Guaranty, or any material misrepresentation or material misstatement exists now or hereafter in any warranty or representation set forth in any Guaranty Document or in any certificate delivered to Bank in connection with any Guaranty Document, or if any of the circumstances described in Sections 8.3 through 8.9 occur with respect to any Guarantor, or any Guarantor dies or becomes subject to any criminal prosecution, or any circumstances arise causing Bank, in good faith, to become insecure as to the satisfaction of any of any Guarantor's obligations under the Guaranty Documents.

9. Bank's Rights and Remedies.

9.1 Rights and Remedies. Upon the occurrence and during the continuance of an Event of Default, Bank may, at its election, without notice of its election and without demand, do any one (1) or more of the following, all of which are authorized by Borrower:

(a) Declare all Obligations, whether evidenced by this Agreement, by any of the other Loan Documents, or otherwise, immediately due and payable (provided that upon the occurrence of an Event of Default described in Section 8.5, all Obligations shall become immediately due and payable without any action by Bank);

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(b) Cease advancing money or extending credit to or for the benefit of Borrower under this Agreement or under any other agreement between Borrower and Bank;

(c) Settle or adjust disputes and claims directly with account debtors for amounts, upon terms and in whatever order that Bank reasonably considers advisable;

(d) Make such payments and do such acts as Bank considers necessary or reasonable to protect its security interest in the Collateral. Borrower agrees to assemble the Collateral if Bank so requires, and to make the Collateral available to Bank as Bank may designate. Borrower authorizes Bank to enter the premises where the Collateral is located, to take and maintain possession of the Collateral, or any part of it, and to pay, purchase, contest, or compromise any encumbrance, charge, or lien which in Bank's determination appears to be prior or superior to its security interest and to pay all expenses incurred in connection therewith. With respect to any of Borrower's owned premises, Borrower hereby grants Bank a license to enter into possession of such premises and to occupy the same, without charge, in order to exercise any of Bank's rights or remedies provided herein, at law, in equity, or otherwise;

(e) Set off and apply to the Obligations any and all (i) balances and deposits of Borrower held by Bank, or (ii) indebtedness at any time owing to or for the credit or the account of Borrower held by Bank;

(f) Ship, reclaim, recover, store, finish, maintain, repair, prepare for sale, advertise for sale, and sell (in the manner provided for herein) the Collateral. Bank is hereby granted a license or other right, solely pursuant to the provisions of this Section 9.1, to use, without charge, Borrower's labels, patents, copyrights, rights of use of any name, trade secrets, trade names, trademarks, service marks, and advertising matter, or any property of a similar nature, as it pertains to the Collateral, in completing production of, advertising for sale, and selling any Collateral and, in connection with Bank's exercise of its rights under this Section 9.1, Borrower's rights under all licenses and all franchise agreements shall inure to Bank's benefit;

(g) Dispose of the Collateral by way of one or more contracts or transactions, for cash or on terms, in such manner and at such places (including Borrower's premises) as Bank determines is commercially reasonable, and apply any proceeds to the Obligations in whatever manner or order Bank deems appropriate;

(h) Bank may credit bid and purchase at any public sale; and

(i) Any deficiency that exists after disposition of the Collateral as provided above will be paid immediately by Borrower.

9.2 Power of Attorney. Effective only upon the occurrence and during the continuance of an Event of Default, Borrower hereby irrevocably appoints Bank (and any of Bank's designated officers, or employees) as Borrower's true and lawful attorney to: (a) send requests for verification of Accounts or notify account debtors of Bank's security interest in the Accounts; (b) endorse Borrower's name on any checks or other forms of payment or security that may come into Bank's possession; (c) sign Borrower's name on any invoice or bill of lading relating to any Account, drafts against account debtors, schedules and assignments of Accounts, verifications of Accounts, and notices to account debtors; (d) dispose of any Collateral; (e) make, settle, and adjust all claims under and decisions with respect to Borrower's policies of insurance; (f) settle and adjust disputes and claims respecting the accounts directly with account debtors, for amounts and upon terms which Bank determines to be reasonable; and (g) to file, in its sole discretion, one or more financing or continuation statements and amendments thereto, relative to any of the Collateral. The appointment of Bank as Borrower's attorney in fact, and each and every one of Bank's rights and powers, being coupled with an interest, is irrevocable until all of the Obligations have been fully repaid and performed and Bank's obligation to provide Credit Extensions hereunder is terminated.

9.3 Accounts Collection. At any time after the occurrence and during the continuance of an Event of Default, Bank may notify any Person owing funds to Borrower of Bank's security interest in such funds and verify the amount of such Account. Borrower shall collect all amounts owing to Borrower for Bank, receive in trust all payments as Bank's trustee, and immediately deliver such payments to Bank in their original form as received from the account debtor, with proper endorsements for deposit.

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9.4 Bank Expenses. If Borrower fails to pay any amounts or furnish any required proof of payment due to third persons or entities, as required under the terms of this Agreement, then Bank may do any or all of the following after reasonable notice to Borrower: (a) make payment of the same or any part thereof; (b) set up such reserves under a loan facility in Section 2.1 as Bank deems necessary to protect Bank from the exposure created by such failure; or (c) obtain and maintain insurance policies of the

type discussed in Section 6.6 of this Agreement, and take any action with respect to such policies as Bank deems prudent. Any amounts so paid or deposited by Bank shall constitute Bank Expenses, shall be immediately due and payable, and shall bear interest at the then applicable rate hereinabove provided, and shall be secured by the Collateral. Any payments made by Bank shall not constitute an agreement by Bank to make similar payments in the future or a waiver by Bank of any Event of Default under this Agreement.

9.5 Bank's Liability for Collateral . So long as Bank complies with reasonable banking practices, Bank shall not in any way or manner be liable or responsible for: (a) the safekeeping of the Collateral; (b) any loss or damage thereto occurring or arising in any manner or fashion from any cause; (c) any diminution in the value thereof; or (d) any act or default of any carrier, warehouseman, bailee, forwarding agency, or other person whomsoever. All risk of loss, damage or destruction of the Collateral shall be borne by Borrower.

9.6 Remedies Cumulative . Bank's rights and remedies under this Agreement, the Loan Documents, and all other agreements shall be cumulative. Bank shall have all other rights and remedies not inconsistent herewith as provided under the Code, by law, or in equity. No exercise by Bank of one right or remedy shall be deemed an election, and no waiver by Bank of any Event of Default on Borrower's part shall be deemed a continuing waiver. No delay by Bank shall constitute a waiver, election, or acquiescence by it. No waiver by Bank shall be effective unless made in a written document signed on behalf of Bank and then shall be effective only in the specific instance and for the specific purpose for which it was given.

9.7 Demand; Protest. Borrower waives demand, protest, notice of protest, notice of default or dishonor, notice of payment and nonpayment, notice of any default, nonpayment at maturity, release, compromise, settlement, extension, or renewal of accounts, documents, instruments, chattel paper, and guarantees at any time held by Bank on which Borrower may in any way be liable.

10. Notices.

All notices, consents, requests, approvals, demands, or other communication by any party to this Agreement or any other Loan Document must be in writing and shall be deemed to have been validly served, given, or delivered: (a) upon the earlier of actual receipt and three (3) Business Days after deposit in the U.S. mail, first class, registered, or certified mail return receipt requested, with proper postage prepaid; (b) upon transmission, when sent by electronic mail; (c) one (1) Business Day after deposit with a reputable overnight courier with all charges prepaid; or (d) when delivered, if hand-delivered by messenger, all of which shall be addressed to the party to be notified and sent to the address, or email address indicated below. Bank or Borrower may change its mailing or electronic mail address by giving the other party written notice thereof in accordance with the terms of this Section 10.

If to Borrower:

AUDIOEYE, INC.
ADA SITE COMPLIANCE, LLC
CRITERION 508 SOLUTIONS, INC.
5210 E. Williams Cir, Ste 750
Tucson, AZ 85711
Attn: Kelly Georgevich
EMAIL: kgeorgevich@audioeye.com

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with a copy to:

Faegre Drinker Biddle & Reath LLP
2200 Wells Fargo Center
90 South Seventh Street
Minneapolis, Minnesota 55419
Attn: Nicole J. Leimer
Email: nicole.leimer@faegredrinker.com

If to Bank:

Bank: WESTERN ALLIANCE BANK
One East Washington Street
Suite 1400
Phoenix, AZ 85004
ATTN: Legal Dept
Email - LegalDepartment@westernalliancebank.com

and
405 Colorado Street, Suite 1650
Austin, Texas 78701
Attn: Francesco Corradino
EMAIL: Francesco.Corradino@bridgebank.com

with a copy to:

Morrison & Foerster LLP
200 Clarendon Street 20th Floor
Boston, Massachusetts 02116
Attn: David A. Ephraim, Esquire
Email: DEphraim@mfo.com

The parties hereto may change the address at which they are to receive notices hereunder, by notice in writing in the foregoing manner given to the other.

11. CHOICE OF LAW AND VENUE; JURY TRIAL WAIVER.

This Agreement and all other Loan Documents shall be governed by, and construed in accordance with, the internal laws of the State of California, without regard to principles of conflicts of law. Each of Borrower and Bank hereby submits to the exclusive jurisdiction of the state and Federal courts located in the County of Santa Clara, State of California. BORROWER AND BANK EACH HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO A JURY TRIAL OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF ANY OF THE LOAN DOCUMENTS OR ANY OF THE TRANSACTIONS CONTEMPLATED THEREIN, INCLUDING CONTRACT CLAIMS, TORT CLAIMS, BREACH OF DUTY CLAIMS, AND ALL OTHER COMMON LAW OR STATUTORY CLAIMS. EACH PARTY RECOGNIZES AND AGREES THAT THE FOREGOING WAIVER CONSTITUTES A MATERIAL INDUCEMENT FOR IT TO ENTER INTO THIS AGREEMENT. EACH PARTY REPRESENTS AND WARRANTS THAT IT HAS REVIEWED THIS WAIVER WITH ITS LEGAL COUNSEL AND THAT IT KNOWINGLY AND VOLUNTARILY WAIVES ITS JURY TRIAL RIGHTS FOLLOWING CONSULTATION WITH LEGAL COUNSEL.

12. JUDICIAL REFERENCE PROVISION.

12.1 In the event the Jury Trial Waiver set forth above is not enforceable, the parties elect to proceed under this Judicial Reference Provision.

12.2 With the exception of the items specified in Section 12.3, below, any controversy, dispute or claim (each, a “**Claim**”) between the parties arising out of or relating to this Agreement or any other document, instrument or agreement between the undersigned parties (collectively in this Section, the “**Loan Documents**”), will be resolved by a reference proceeding in California in accordance with the provisions of Sections 638 *et seq.* of the California Code of Civil Procedure (“**CCP**”), or their successor sections, which shall constitute the exclusive remedy for the resolution of any Claim, including whether the Claim is subject to the reference proceeding. Except as otherwise provided in the Loan Documents, venue for the reference proceeding will be in the state or federal court in the county or district where the real property involved in the action, if any, is located or in the state or federal court in the county or district where venue is otherwise appropriate under applicable law (the “**Court**”).

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12.3 The matters that shall not be subject to a reference are the following: (i) nonjudicial foreclosure of any security interests in real or personal property, (ii) exercise of self-help remedies (including, without limitation, set-off), (iii) appointment of a receiver and (iv) temporary, provisional or ancillary remedies (including, without limitation, writs of attachment, writs of possession, temporary restraining orders or preliminary injunctions). This reference provision does not limit the right of any party to exercise or oppose any of the rights and remedies described in clauses (i) and (ii) or to seek or oppose from a court of competent jurisdiction any of the items described in clauses (iii) and (iv). The exercise of, or opposition to, any of those items does not waive the right of any party to a reference pursuant to this reference provision as provided herein.

12.4 The referee shall be a retired judge or justice selected by mutual written agreement of the parties. If the parties do not agree within ten (10) days of a written request to do so by any party, then, upon request of any party, the referee shall be selected by the Presiding Judge of the Court (or his or her representative). A request for appointment of a referee may be heard on an *ex parte* or expedited basis, and the parties agree that irreparable harm would result if *ex parte* relief is not granted. Pursuant to CCP § 170.6, each party shall have one peremptory challenge to the referee selected by the Presiding Judge of the Court (or his or her representative).

12.5 The parties agree that time is of the essence in conducting the reference proceedings. Accordingly, the referee shall be requested, subject to change in the time periods specified herein for good cause shown, to (i) set the matter for a status and trial-setting conference within fifteen (15) days after the date of selection of the referee, (ii) if practicable, try all issues of law or fact within one hundred twenty (120) days after the date of the conference and (iii) report a statement of decision within twenty (20) days after the matter has been submitted for decision.

12.6 The referee will have power to expand or limit the amount and duration of discovery. The referee may set or extend discovery deadlines or cutoffs for good cause, including a party's failure to provide requested discovery for any reason whatsoever. Unless otherwise ordered based upon good cause shown, no party shall be entitled to “priority” in conducting discovery, depositions may be taken by either party upon seven (7) days written notice, and all other discovery shall be responded to within fifteen (15) days after service. All disputes relating to discovery which cannot be resolved by the parties shall be submitted to the referee whose decision shall be final and binding.

12.7 Except as expressly set forth herein, the referee shall determine the manner in which the reference proceeding is conducted including the time and place of hearings, the order of presentation of evidence, and all other questions that arise with respect to the course of the reference proceeding. All proceedings and hearings conducted before the referee, except for trial, shall be conducted without a court reporter, except that when any party so requests, a court reporter will be used at any hearing conducted before the referee, and the referee will be provided a courtesy copy of the transcript. The party making such a request shall have the obligation to arrange for and pay the court reporter. Subject to the referee's power to award costs to the prevailing party, the parties will equally share the cost of the referee and the court reporter at trial.

12.8 The referee shall be required to determine all issues in accordance with existing case law and the statutory laws of the State of California. The rules of evidence applicable to proceedings at law in the State of California will be applicable to the reference proceeding. The referee shall be empowered to enter equitable as well as legal relief, enter equitable orders that will be binding on the parties and rule on any motion which would be authorized in a court proceeding, including without limitation motions for summary judgment or summary adjudication. The referee shall issue a decision at the close of the reference proceeding which disposes of all claims of the parties that are the subject of the reference. Pursuant to CCP § 644, such decision shall be entered by the Court as a judgment or an order in the same manner as if the action had been tried by the Court and any such decision will be final, binding and conclusive. The parties reserve the right to appeal from the final judgment or order or from any appealable decision or order entered by the referee. The parties reserve the right to findings of fact, conclusions of law, a written statement of decision, and the right to move for a new trial or a different judgment, which new trial, if granted, is also to be a reference proceeding under this provision.

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12.9 If the enabling legislation which provides for appointment of a referee is repealed (and no successor statute is enacted), any dispute between the parties that would otherwise be determined by reference procedure will be resolved and determined by arbitration. The arbitration will be conducted by a retired judge or justice, in accordance with the California Arbitration Act §1280 through §1294.2 of the CCP as amended from time to time. The limitations with respect to discovery set forth above shall apply to any such arbitration proceeding.

12.10 THE PARTIES RECOGNIZE AND AGREE THAT ALL CONTROVERSIES, DISPUTES AND CLAIMS RESOLVED UNDER THIS REFERENCE PROVISION WILL BE DECIDED BY A REFEREE AND NOT BY A JURY. AFTER CONSULTING (OR HAVING HAD THE OPPORTUNITY TO CONSULT) WITH COUNSEL OF ITS, HIS OR HER OWN CHOICE, EACH PARTY KNOWINGLY AND VOLUNTARILY, AND FOR THE MUTUAL BENEFIT OF ALL PARTIES, AGREES THAT THIS REFERENCE PROVISION WILL APPLY TO ANY CONTROVERSY, DISPUTE OR CLAIM BETWEEN OR AMONG THEM ARISING OUT OF OR IN ANY WAY RELATED TO, THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.

13. General Provisions.

13.1 Successors and Assigns . This Agreement shall bind and inure to the benefit of the respective successors and permitted assigns of each of the parties; provided, however, that neither this Agreement nor any rights hereunder may be assigned by Borrower without Bank's prior written consent, which consent may be granted or withheld in Bank's sole discretion. Bank shall have the right without the consent of or notice to Borrower to sell, transfer, negotiate, or grant participation in all or any part of, or any interest in, Bank's obligations, rights and benefits hereunder.

13.2 Indemnification. Borrower shall defend, indemnify and hold harmless Bank and its officers, employees, and agents against: (a) all obligations, demands, claims, and liabilities claimed or asserted by any other party in connection with the transactions contemplated by this Agreement; and (b) all losses or Bank Expenses in any way suffered, incurred, or paid by Bank as a result of or in any way arising out of, following, or consequential to transactions between Bank and Borrower whether under this Agreement, or otherwise (including without limitation reasonable attorneys' fees and expenses), except for losses caused by Bank's gross negligence or willful misconduct.

13.3 Time of Essence. Time is of the essence for the performance of all obligations set forth in this Agreement.

13.4 Severability of Provisions . Each provision of this Agreement shall be severable from every other provision of this Agreement for the purpose of determining the legal enforceability of any specific provision.

13.5 Amendments in Writing, Integration . Neither this Agreement nor the Loan Documents can be amended or terminated orally. All prior agreements,

understandings, representations, warranties, and negotiations between the parties hereto with respect to the subject matter of this Agreement and the Loan Documents, if any, are merged into this Agreement and the Loan Documents.

13.6 Counterparts. This Agreement may be executed in any number of counterparts and by different parties on separate counterparts, each of which, when executed and delivered, shall be deemed to be an original, and all of which, when taken together, shall constitute but one and the same Agreement.

13.7 Survival. All covenants, representations and warranties made in this Agreement shall continue in full force and effect so long as any Obligations remain outstanding or Bank has any obligation to make Credit Extensions to Borrower. The obligations of Borrower to indemnify Bank with respect to the expenses, damages, losses, costs and liabilities described in Section 13.2 shall survive until all applicable statute of limitations periods with respect to actions that may be brought against Bank have run.

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13.8 Confidentiality. In handling any confidential information Bank and all employees and agents of Bank, including but not limited to accountants, shall exercise the same degree of care that it exercises with respect to its own proprietary information of the same types to maintain the confidentiality of any non-public information thereby received or received pursuant to this Agreement except that disclosure of such information may be made (i) to the subsidiaries or affiliates of Bank in connection with their present or prospective business relations with Borrower, (ii) to prospective transferees or purchasers of any interest in the Credit Extensions, (iii) as required by law, regulations, rule or order, subpoena, judicial order, or similar order, (iv) as may be required in connection with the examination, audit, or similar investigation of Bank and (v) as Bank may determine in connection with the enforcement of any remedies hereunder. Confidential information hereunder shall not include information that either: (a) is in the public domain or in the knowledge or possession of Bank when disclosed to Bank, or becomes part of the public domain after disclosure to Bank through no fault of Bank; or (b) is disclosed to Bank by a third party, provided Bank does not have actual knowledge that such third party is prohibited from disclosing such information.

13.9 Patriot Act Notice. Bank notifies Borrower that, pursuant to the requirements of the USA Patriot Act, Title III of Pub. L. 107-56 (signed into law on October 26, 2001) (the "Patriot Act"), it is required to obtain, verify and record information that identifies Borrower, which information includes names and addresses and other information that will allow Bank to identify Borrower in accordance with the Patriot Act.

14. CO-BORROWERS.

14.1 Co-Borrowers. Borrowers are jointly and severally liable for the Obligations and Bank may proceed against one Borrower to enforce the Obligations without waiving its right to proceed against the other Borrower. This Agreement and the Loan Documents are a primary and original obligation of each Borrower and shall remain in effect notwithstanding future changes in conditions, including any change of law or any invalidity or irregularity in the creation or acquisition of any Obligations or in the execution or delivery of any agreement between Bank and any Borrower. Each Borrower shall be liable for existing and future Obligations as fully as if all of the Credit Extensions were advanced to such Borrower. Bank may rely on any certificate or representation made by any Borrower as made on behalf of, and binding on, each Borrower, including without limitation Credit Extension Request Forms and Compliance Certificates. Each Borrower appoints each other Borrower as its agent with all necessary power and authority to give and receive notices, certificates or demands for and on behalf of each Borrower, to act as disbursing agent for receipt of any Advances on behalf of each Borrower and to apply to Bank on behalf of each Borrower for Advances, any waivers and any consents. This authorization cannot be revoked, and Bank need not inquire as to one Borrower's authority to act for or on behalf of another Borrower.

14.2 Subrogation and Similar Rights. Notwithstanding any other provision of this Agreement or any other Loan Document, each Borrower irrevocably waives, until all Obligations (other than inchoate indemnity obligations) are paid in full and Bank has no further obligation to make Credit Extensions to each Borrower, all rights that it may have at law or in equity (including, without limitation, any law subrogating a Borrower to the rights of Bank under the Loan Documents) to seek contribution, indemnification, or any other form of reimbursement from any other Borrower, or any other Person now or hereafter primarily or secondarily liable for any of the Obligations, for any payment made by a Borrower with respect to the Obligations in connection with the Loan Documents or otherwise and all rights that it might have to benefit from, or to participate in, any security for the Obligations as a result of any payment made by a Borrower with respect to the Obligations in connection with the Loan Documents or otherwise. Any agreement providing for indemnification, reimbursement or any other arrangement prohibited under this Section shall be null and void. If any payment is made to a Borrower in contravention of this Section, such Borrower shall hold such payment in trust for Bank and such payment shall be promptly delivered to Bank for application to the Obligations, whether matured or unmatured.

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14.3 Waivers of Notice. Each Borrower waives, to the extent permitted by law, notice of acceptance hereof; notice of the existence, creation or acquisition of any of the Obligations; notice of an Event of Default except as set forth herein; notice of the amount of the Obligations outstanding at any time; notice of any adverse change in the financial condition of any other Borrower or of any other fact that might increase a Borrower's risk; presentment for payment; demand; protest and notice thereof as to any instrument; and all other notices and demands to which Borrower would otherwise be entitled by virtue of being a co-borrower or a surety. Each Borrower waives any defense arising from any defense of any other Borrower, or by reason of the cessation from any cause whatsoever of the liability of any other Borrower. Bank's failure at any time to require strict performance by any Borrower of any provision of the Loan Documents shall not waive, alter or diminish any right of Bank thereafter to demand strict compliance and performance therewith. Each Borrower also waives any defense arising from any act or omission of Bank that changes the scope of Borrower's risks hereunder. Each Borrower hereby waives any right to assert against Bank any defense (legal or equitable), setoff, counterclaim, or claims that such Borrower individually may now or hereafter have against another Borrower or any other Person liable to Bank with respect to the Obligations in any manner or whatsoever.

14.4 Subrogation of Defenses. For so long as any Obligations are outstanding or Bank has any obligations to make Credit Extensions to Borrower hereunder, each Borrower hereby agrees not to assert any defense based on impairment or destruction of its subrogation or other rights against any other Borrower and waives all benefits which might otherwise be available to it under California Civil Code Sections 2809, 2810, 2819, 2839, 2845, 2848, 2849, 2850, 2899, and 3433 and California Code of Civil Procedure Sections 580a, 580b, 580d and 726, as those statutory provisions are now in effect and hereafter amended, and under any other similar statutes now and hereafter in effect. This Section 14.4 shall have no further force or effect and shall terminate automatically upon the indefeasible repayment in full in cash of all Obligations owing to Bank and the termination of this Agreement and Bank's obligation to make Credit Extensions to Borrower hereunder.

14.5 Right to Settle, Release

(a) The liability of Borrower hereunder shall not be diminished by (i) any agreement, understanding, or representation that any of the Obligations is or was to be guaranteed by another Person or secured by other property, or (ii) any release or unenforceability, whether partial or total, of rights, if any, which Bank may now or hereafter have against any other Person, including another Borrower, or property with respect to any of the Obligations.

(b) Without notice to any given Borrower and without affecting the liability of any given Borrower hereunder, Bank may (i) compromise, settle, renew, extend the time for payment, change the manner or terms of payment, discharge the performance of, decline to enforce, or release all or any of the Obligations with respect to any other Borrower by written agreement with such other Borrower, (ii) grant other indulgences to another Borrower in respect of the Obligations, (iii) modify in any manner any documents relating to the Obligations with respect to any other Borrower by written agreement with such other Borrower, (iv) release, surrender or exchange any deposits or other

property securing the Obligations, whether pledged by a Borrower or any other Person, or (v) compromise, settle, renew, or extend the time for payment, discharge the performance of, decline to enforce, or release all or any obligations of any guarantor, endorser or other Person who is now or may hereafter be liable with respect to any of the Obligations.

14.6 Subordination. All indebtedness of a Borrower now or hereafter arising held by another Borrower, except as disclosed in the attached Schedule, is subordinated to the Obligations, and Borrower holding the indebtedness shall take all actions reasonably requested by Bank to effect, to enforce and to give notice of such subordination.

15. NOTICE OF FINAL AGREEMENT.

BY SIGNING THIS DOCUMENT EACH PARTY REPRESENTS AND AGREES THAT: (A) THIS WRITTEN AGREEMENT REPRESENTS THE FINAL AGREEMENT BETWEEN THE PARTIES, (B) THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES, AND (C) THIS WRITTEN AGREEMENT MAY NOT BE CONTRADICTED BY EVIDENCE OF ANY PRIOR, CONTEMPORANEOUS, OR SUBSEQUENT ORAL AGREEMENTS OR UNDERSTANDINGS OF THE PARTIES.

[Signature Page Follows]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the date first above written.

AUDIOEYE, INC.

By: /s/ Kelly Georgevich
Name: Kelly Georgevich
Title: Chief Financial Officer

ADA SITE COMPLIANCE, LLC

By: /s/ Kelly Georgevich
Name: Kelly Georgevich
Title: Chief Financial Officer

CRITERION 508 SOLUTIONS, INC.

By: /s/ Kelly Georgevich
Name: Kelly Georgevich
Title: Chief Financial Officer

WESTERN ALLIANCE BANK, AN ARIZONA CORPORATION

By: /s/ Francesco Corradino
Name: Francesco Corradino
Title: Director

EXHIBIT A

DEBTOR: **AUDIOEYE, INC., a Delaware corporation**
ADA SITE COMPLIANCE, LLC, a Delaware limited liability company
CRITERION 508 SOLUTIONS, INC., an Iowa corporation
SECURED PARTY: **WESTERN ALLIANCE BANK, an Arizona corporation**

**COLLATERAL DESCRIPTION ATTACHMENT
TO LOAN AND SECURITY AGREEMENT**

All personal property of Borrower (herein referred to as “Borrower” or “Debtor”) whether presently existing or hereafter created or acquired, and wherever located, including, but not limited to:

- (a) all accounts (including health-care-insurance receivables), chattel paper (including tangible and electronic chattel paper), deposit accounts, documents (including negotiable documents), equipment (including all accessions and additions thereto), Intellectual Property Collateral and other general intangibles (including payment intangibles and software), goods (including fixtures), instruments (including promissory notes), inventory (including all goods held for sale or lease or to be furnished under a contract of service, and including returns and repossessions), investment property (including securities and securities entitlements), letter of credit rights, money, and all of Debtor’s books and records with respect to any of the foregoing, and the computers and equipment containing said books and records; and
- (b) any and all cash proceeds and/or noncash proceeds of any of the foregoing, including, without limitation, insurance proceeds, and all supporting obligations and the security therefor or for any right to payment. All terms above have the meanings given to them in the California Uniform Commercial Code, as amended or supplemented from time to time.

EXHIBIT B**CREDIT EXTENSION REQUEST FORM***(To be submitted no later than 3:00 PM to be considered for same day processing)*

To: Western Alliance Bank, an Arizona corporation

Date: _____

From: **AUDIOEYE, INC., ADA SITE COMPLIANCE, LLC and CRITERION 508 SOLUTIONS, INC.**

Borrower's Name _____

Authorized Signature _____

Authorized Signer's Name (please print) _____

Phone Number _____

To Account # _____

Borrower hereby requests funding in the amount of \$ _____ in accordance with the Credit Extension as defined in the Loan and Security Agreement dated March 31, 2025.

All representations and warranties of Borrower stated in the Loan and Security Agreement are true, correct and complete in all material respects as of the date of this Credit Extension Request Form; provided that those representations and warranties expressly referring to another date shall be true, correct and complete in all material respects as of such date.

Capitalized terms used herein and not otherwise defined have the meanings set forth in the Loan and Security Agreement.

EXHIBIT C**COMPLIANCE CERTIFICATE**

TO: WESTERN ALLIANCE BANK, an Arizona corporation

FROM: AUDIOEYE, INC., a Delaware corporation ("AudioEye")

CRITERION 508 SOLUTIONS, INC., an Iowa corporation ("Criterion")

ADA SITE COMPLIANCE, LLC, a Delaware limited liability company ("ADA", together with AudioEye and Criterion, individually and collectively, jointly and severally, "Borrower")

The undersigned authorized officer of _____ hereby certifies that in accordance with the terms and conditions of the Loan and Security Agreement between Borrower and Bank (the "Agreement"), (i) Borrower is in complete compliance for the period ending _____ with all required covenants except as noted below and (ii) except as noted below or on the attached, all representations and warranties of Borrower stated in the Agreement are true and correct in all material respects as of the date hereof (provided, however, that those representations and warranties expressly referring to another date shall be true and correct in all material respects as of such date). Attached herewith are the required documents supporting the above certification. The Officer further certifies that these are prepared in accordance with Generally Accepted Accounting Principles (GAAP) and are consistently applied from one period to the next except as explained in an accompanying letter or footnotes.

Please indicate compliance status by circling Yes/No under "Complies" column.

<u>Reporting Covenant</u>	<u>Required</u>	<u>Complies</u>	
Annual financial statements (CPA Audited)	FYE within 180 days if required by Borrower's board of directors	Yes	No
Monthly financial statements, Compliance Certificate, Monthly Recurring Revenue & Annual Recurring Revenue by customer reports, KPI reports, churn reports	Monthly within 30 days	Yes	No
10K and 10Q	(as applicable)	Yes	No
Annual operating budget as approved by board of directors	FYE within 30 days	Yes	No
A/R & A/P Agings	Monthly within 30 days	Yes	No
Collateral Audit	Initial and Annual (if requested)	Yes	No
Deposit balances with Bank	\$ _____		
Deposit balance outside Bank	\$ _____		

Financial Covenants: **Required** **Actual** **Complies**

MinimumCash (during Testing Period A)	>\$3,000,000.00	\$	Yes	No
Committed Debt to ARR Ratio (during Testing Period A)	See Section 6.8(b)	_____	Yes	No
Maximum Total Leverage (during Testing Period B)	See Section 6.8(c)	_____	Yes	No
Fixed Charge Coverage Ratio (during Testing Period B)	≥1.50x	_____	Yes	No

Other Matters:	Response? (Circle or select “Yes” or “No” from drop down menu)
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Have there been any amendments of or other changes to the Operating Documents of Borrower or any of its Subsidiaries, including, without limitation, any such entity’s formation documents or bylaws (if a corporation), limited liability company agreement (if a limited liability company), or partnership agreement or limited partnership agreement (if a partnership or limited partnership)? If yes, provide copies of any such amendments or changes with this Compliance Certificate.

Y/N

Are there any exceptions with respect to the above? If yes, please attach comments regarding such exceptions to this Compliance Certificate.

Y/N

Sincerely,

SIGNATURE

TITLE

DATE: _____

SCHEDULE OF EXCEPTIONS

Permitted Indebtedness (Section 1.1)

None.

Permitted Investments (Section 1.1)

None.

Permitted Liens (Section 1.1)

UCC financing statement no. 2019 4895319 filed on July 12, 2019 by Financial Agent Services relating to certain MacBooks

UCC financing statement no 2021 2987338 filed on April 16, 2021 by Corporation Service Company, as representative relating to certain MacBooks

Grant of Security Interest (Section 4.1)

None.

Inbound Licenses (Section 5.6)

None.

Prior Names and Locations (Section 5.7)

The Borrower has computer equipment at various locations.

Litigation (Section 5.8)

None

Environmental Condition (Section 5.12)

None.