

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

FORM 10-Q

(Mark One)

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

For the quarterly period ended: March 31, 2020
or

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

For the transition period from _____ to _____.

Commission file number: 0-21121

TRANSACT

Technologies Incorporated

(Exact name of registrant as specified in its charter)

Delaware

06-1456680

(State or Other Jurisdiction of Incorporation or Organization)

(I.R.S. Employer Identification No.)

One Hamden Center, 2319 Whitney Avenue, Suite 3B, Hamden, CT

06518

(Address of Principal Executive Offices)

(Zip Code)

(203) 859-6800

(Registrant's Telephone Number, Including Area Code)

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

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common stock, par value \$0.01 per share	TACT	NASDAQ Global Market

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

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

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

Large accelerated filer

Non-accelerated filer

Accelerated filer

Smaller reporting company

Emerging growth company

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

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

As of April 30, 2020, the number of shares outstanding of the Company's common stock, \$0.01 par value, was 7,539,685.

EXPLANATORY NOTE

As previously disclosed in the Current Report on Form 8-K filed by TransAct Technologies Incorporated (the “Company”) with the U.S. Securities and Exchange Commission (the “SEC”) on May 6, 2020, the filing of this Quarterly Report on Form 10-Q for the quarter ended March 31, 2020 (this “Form 10-Q”) was delayed in reliance on the March 25, 2020 order issued by the SEC in SEC Release No. 34-88465, which, subject to certain conditions, provides the Company with an additional 45 days to file this Form 10-Q (the “Order”). The Order was issued pursuant to the SEC’s authority under Section 36 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), granting exemptions from certain provisions of the Exchange Act and the rules thereunder related to public company reporting requirements. The original due date of this Form 10-Q was May 11, 2020.

The filing of this Form 10-Q was delayed due to circumstances related to COVID-19 and its impact on the Company’s business and accounting operations. The majority of the Company’s finance and accounting personnel is working remotely. In connection with the preparation of this Form 10-Q, the Company experienced disruptions in its normal processes and interactions with its accounting personnel and advisors, legal advisors and others responsible for preparation of this Form 10-Q. The impact of COVID-19 has also necessitated additional analysis in connection with the preparation and review of this Form 10-Q, including financial and liquidity projections and analysis and an assessment of the impact of the COVID-19 crisis on goodwill and intangible asset impairment. Further, the attention of certain personnel involved in the preparation of this Form 10-Q has been diverted by measures being taken to mitigate the impact of the COVID-19 pandemic on the Company, including the work required to apply for relief under the Paycheck Protection Program established under the Coronavirus Aid, Relief and Economic Security Act, and work associated with carrying out our previously announced furlough of employees.

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PART I - FINANCIAL INFORMATION

Item 1. FINANCIAL STATEMENTS

TRANSACT TECHNOLOGIES INCORPORATED
CONDENSED CONSOLIDATED BALANCE SHEETS
(unaudited)

	March 31, 2020	December 31, 2019
<i>(In thousands, except share data)</i>		
Assets:		
Current assets:		
Cash and cash equivalents	\$ 615	\$ 4,203
Accounts receivable, net	6,261	6,418
Note receivable	100	1,017
Inventories, net	12,586	12,099
Prepaid income taxes	124	180
Other current assets	1,300	998
Total current assets	<u>20,986</u>	<u>24,915</u>
Fixed assets, net of accumulated depreciation of \$19,160 and \$19,010, respectively	2,414	2,244
Note receivable, net of current portion	1,530	–
Right-of-use asset	4,159	2,855
Goodwill	2,621	2,621
Deferred tax assets	3,086	2,565
Intangible assets, net of accumulated amortization of \$3,833 and \$3,771, respectively	754	817
Other assets	237	44
	<u>14,801</u>	<u>11,146</u>
Total assets	<u>\$ 35,787</u>	<u>\$ 36,061</u>
Liabilities and Shareholders' Equity:		
Current liabilities:		
Accounts payable	\$ 1,737	\$ 2,960
Accrued liabilities	2,419	3,041
Revolving bank loan payable	794	–
Lease liability	880	945
Deferred revenue	643	700
Total current liabilities	<u>6,473</u>	<u>7,646</u>
Deferred revenue, net of current portion	183	219
Lease liability, net of current portion	3,456	2,104
Other liabilities	170	166
	<u>3,809</u>	<u>2,489</u>
Total liabilities	<u>10,282</u>	<u>10,135</u>
Shareholders' equity:		
Common stock, \$0.01 par value, 20,000,000 shares authorized; 11,583,527 and 11,515,090 shares issued, respectively; 7,538,685 and 7,470,248 shares outstanding, respectively	116	115
Additional paid-in capital	33,103	32,604
Retained earnings	24,356	25,348
Accumulated other comprehensive income (loss), net of tax	40	(31)
Treasury stock, at cost, 4,044,842 shares	<u>(32,110)</u>	<u>(32,110)</u>
Total shareholders' equity	<u>25,505</u>	<u>25,926</u>
Total liabilities and shareholders' equity	<u>\$ 35,787</u>	<u>\$ 36,061</u>

See notes to Condensed Consolidated Financial Statements.

TRANSACT TECHNOLOGIES INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS
(unaudited)

	Three Months Ended	
	March 31,	
	<u>2020</u>	<u>2019</u>
	<i>(In thousands, except per share data)</i>	
Net sales	\$ 10,247	\$ 11,550
Cost of sales	5,329	5,464
Gross profit	<u>4,918</u>	<u>6,086</u>
Operating expenses:		
Engineering, design and product development	1,385	1,165
Selling and marketing	2,208	1,854
General and administrative	2,620	2,290
	<u>6,213</u>	<u>5,309</u>
Operating income (loss)	<u>(1,295)</u>	<u>777</u>
Interest and other income (expense):		
Interest, net	3	(6)
Other, net	(165)	90
	<u>(162)</u>	<u>84</u>
Income (loss) before income taxes	(1,457)	861
Income tax (benefit) provision	(465)	115
Net income (loss)	<u>\$ (992)</u>	<u>\$ 746</u>
Net income (loss) per common share:		
Basic	\$ (0.13)	\$ 0.10
Diluted	\$ (0.13)	\$ 0.10
Shares used in per-share calculation:		
Basic	7,507	7,461
Diluted	7,507	7,619

See notes to Condensed Consolidated Financial Statements.

TRANSACT TECHNOLOGIES INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME (LOSS)
(unaudited)

	Three Months Ended	
	March 31,	
	2020	2019
	<i>(In thousands)</i>	
Net income (loss)	\$ (992)	\$ 746
Foreign currency translation adjustment, net of tax	71	9
Comprehensive income (loss)	<u>\$ (921)</u>	<u>\$ 755</u>

See notes to Condensed Consolidated Financial Statements.

TRANSACTION TECHNOLOGIES INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(unaudited)

	Three Months Ended	
	March 31,	
	2020	2019
	<i>(In thousands)</i>	
Cash flows from operating activities:		
Net income (loss)	\$ (992)	\$ 746
Adjustments to reconcile net income (loss) to net cash used in operating activities:		
Share-based compensation expense	187	173
Depreciation and amortization	238	252
Deferred income taxes	(518)	(35)
Foreign currency transaction (gains) losses	194	(66)
Changes in operating assets and liabilities:		
Accounts receivable	106	1,210
Inventories	(573)	(1,484)
Prepaid income taxes	51	147
Other current and long-term assets	(266)	(437)
Accounts payable	(1,243)	(1,254)
Accrued liabilities and other liabilities	(755)	(806)
Net cash used in operating activities	(3,571)	(1,554)
Cash flows from investing activities:		
Capital expenditures	(328)	(298)
Additions to capitalized software	-	(4)
Issuance of note receivable	(600)	-
Net cash used in investing activities	(928)	(302)
Cash flows from financing activities:		
Revolving credit line borrowings	1,000	-
Revolving credit line payments	(206)	-
Payment of dividends on common stock	-	(668)
Proceeds from stock option exercises	353	-
Withholding taxes paid on stock issuances	(41)	(199)
Payment of bank financing costs	(201)	-
Net cash provided by (used in) financing activities	905	(867)
Effect of exchange rate changes on cash and cash equivalents	6	(24)
Decrease in cash and cash equivalents	(3,588)	(2,747)
Cash and cash equivalents, beginning of period	4,203	4,691
Cash and cash equivalents, end of period	\$ 615	\$ 1,944
Supplemental schedule of non-cash investing activities:		
Capital expenditures included in accounts payable	\$ 38	\$ 59

See notes to Condensed Consolidated Financial Statements.

TRANSACT TECHNOLOGIES INCORPORATED
CONDENSED CONSOLIDATED STATEMENTS OF CHANGES IN SHAREHOLDERS' EQUITY
(unaudited)

	Three Months Ended	
	March 31,	
	2020	2019
	<i>(In thousands, except share and per share data)</i>	
Equity beginning balance	\$ 25,926	\$ 27,567
Common stock		
Balance, beginning of period	115	115
Issuance of shares from stock awards	1	–
Balance, end of period	<u>116</u>	<u>115</u>
Additional paid-in capital		
Balance, beginning of period	32,604	32,129
Share-based compensation expense	187	173
Issuance of shares from exercise of stock options	353	–
Relinquishment of stock awards and deferred stock units to pay for withholding taxes	(41)	(199)
Balance, end of period	<u>33,103</u>	<u>32,103</u>
Retained earnings		
Balance, beginning of period	25,348	27,515
Net income (loss)	(992)	746
Dividends declared and paid on common stock	–	(668)
Balance, end of period	<u>24,356</u>	<u>27,593</u>
Treasury stock		
Balance, beginning and end of period	<u>(32,110)</u>	<u>(32,110)</u>
Accumulated other comprehensive income (loss)		
Balance, beginning of period	(31)	(82)
Foreign currency translation adjustment, net of tax	71	9
Balance, end of period	<u>40</u>	<u>(73)</u>
Equity ending balance	<u><u>25,505</u></u>	<u><u>27,628</u></u>
Supplemental share information		
Issuance of shares from stock awards	82,525	56,998
Relinquishment of stock awards to pay withholding taxes	14,088	19,637
Dividends per share of common stock	\$ –	\$ 0.09

See notes to Condensed Consolidated Financial Statements.

1. Basis of presentation

The accompanying unaudited financial statements of TransAct Technologies Incorporated (“TransAct”, the “Company”, “we”, “us”, or “our”) have been prepared in accordance with accounting principles generally accepted in the United States of America (“U.S. GAAP”) for interim financial information. Accordingly, they do not include all of the information and footnotes required by U.S. GAAP to be included in full year financial statements. In the opinion of management, all adjustments considered necessary for a fair statement of the results for the periods presented have been included and are of a normal recurring nature. The December 31, 2019 Condensed Consolidated Balance Sheet data was derived from audited financial statements, but does not include all disclosures required by U.S. GAAP. These interim financial statements should be read in conjunction with the audited financial statements for the year ended December 31, 2019 included in our Annual Report on Form 10-K for the full year ended December 31, 2019.

The financial position and results of operations of our U.K. subsidiary are measured using local currency as the functional currency. Assets and liabilities of such subsidiary have been translated at the end of period exchange rates, and related revenues and expenses have been translated at the exchange rate as of the date the transaction was recognized, with the resulting translation gain or loss recorded in “Accumulated other comprehensive income (loss), net of tax”, in the Condensed Consolidated Balance Sheets and Condensed Consolidated Statements of Changes in Shareholders’ Equity. Transaction gains and losses are included in “Other, net” in the Condensed Consolidated Statements of Operations.

The results of operations for the three months ended March 31, 2020 are not necessarily indicative of the results to be expected for the full year.

COVID-19

The unprecedented and rapid spread of a novel strain of coronavirus, commonly known as COVID-19, and the measures implemented to mitigate its spread have caused widespread business, government and school closures that have particularly affected the food service and casinos and gaming industries. Such disruptions have also negatively impacted our business. As a result of the COVID-19 pandemic and the protective measures instituted to contain its spread, we have experienced decreased customer demand, lower than anticipated sales in the second half of March 2020 and supply chain disruptions, including delayed product shipments from our two contract manufacturers located in China and Thailand. We are monitoring indicators of demand recovery, including our sales pipeline, customer orders and product shipments to ascertain an estimate of the full-year impact; however, the length and severity of the reduction in demand due to the pandemic is uncertain. We assessed certain accounting matters that generally require consideration of forecasted financial information in context with the information reasonably available to us and the unknown future impacts COVID-19 as of March 31, 2020 and through the date of this report. The accounting matters assessed included, but were not limited to, our allowance for doubtful accounts, inventory obsolescence, stock based compensation, the value of our goodwill and other long-lived assets, financial assets, valuation allowances for tax assets and revenue recognition. While there was not a material impact to our consolidated financial statements as of and for the quarter ended March 31, 2020, resulting from our assessments, our future assessment of our current expectations at that time of the magnitude and duration of COVID-19, as well as other factors, could result in material impacts to our consolidated financial statements in future reporting periods.

Our expense management and liquidity measures described below may be modified as we obtain additional clarity on the timing of customer demand recovery. Given the unpredictability of the future operations of our customers, as well as of any economic or business recovery, we have implemented certain measures to mitigate the impact of the pandemic on our financial position and operations. These measures include, but are not limited to, the following:

Expense Management. With the reduction in net sales, we have implemented, and expect to continue to implement to the extent necessary or advisable cost saving initiatives including:

- the temporary furlough of approximately 10% of our workforce prior to receiving PPP loan proceeds;
- a 10% reduction in the salaries of all salaried, non-commissioned employees, including executive officers,
- a reduction in sales commissions for all commissioned employees;
- a 10% reduction of cash retainer fees for all non-employee director; and
- the elimination of discretionary spending wherever possible.

Balance Sheet, Cash Flow and Liquidity. In addition to the expense management actions noted above, we have taken the following actions to increase liquidity and strengthen our financial position:

- PPP Loan - On May 1, 2020, the Company was granted a \$2.2 million loan under the Paycheck Protection Program (the “PPP Loan”) administered by the United States Small Business Administration (“SBA”) established under the Coronavirus Aid, Relief, and Economic Security (“CARES”) Act, which has enabled us to return our furloughed employees to full time employment.
- New Credit Facility - We also secured a new revolving credit facility with Siena Lending Group LLC that provides a revolving credit line of up to \$10 million, subject to a borrowing base; and
- Reduced Capital Expenditures - We also have limited capital expenditures until market conditions improve.

After reviewing whether conditions and/or events raise substantial doubt about our ability to meet future financial obligations over the next twelve months, including consideration of our recent actions in response to the pandemic and the assumptions discussed below, we have concluded our net cash provided by operations combined with our cash and cash equivalents and borrowing availability under our revolving credit facility and the PPP Loan and savings from the cost reduction actions described below will provide sufficient liquidity to fund our current obligations, capital spending, and working capital requirements. We expect to comply with our credit facility’s minimum EBITDA financial covenant over at least the next twelve months.

Our conclusion regarding the ability of the Company to fund planned operations is based on assumptions which involve significant judgment and estimates of future revenues, capital spend and other operating costs. Our current assumptions are that casinos and restaurants will reopen, although in a limited capacity, during the second quarter of 2020 in our primary market areas but we anticipate that demand for our casino and gaming printers, as well as, POS printers and BOHA! products will remain low due to a decline in capital expenditures likely to result from months of ceased or reduced operations. If we experience a slower than expected recovery, we believe we can take additional financial and operational actions to mitigate the impact of lower sales than our current plans assume. These actions include additional expense reductions, capital raising activities including utilization of opportunities provided under the CARES Act.

Valuation of Goodwill, Indefinite-Lived Intangible Assets and Long-Lived Assets

We perform a fair value-based impairment test to the carrying value of goodwill and indefinite-lived intangible assets on an annual basis (as of December 31) and, if certain events or circumstances indicate that an impairment loss may have been incurred, on an interim basis. Our fourth quarter 2019 quantitative impairment tests of goodwill and indefinite-lived intangible assets indicated that there was no indication of impairment as the fair value exceeded our carrying value.

During the three months ended March 31, 2020, our stock price declined to the lowest price since 2009. We determined that the significant decline in our market capitalization and broader economic downturn arising from the COVID-19 pandemic was a triggering event and an indicator that it was more likely than not that the carrying value of goodwill could have been reduced below its fair value. Therefore, we concluded that quantitative analyses were required to be performed due to the triggering event occurring during the quarter.

We view our operations and manage our business as one operating unit. We utilized an implied market value method under the market approach to calculate the fair value of the Company as of March 31, 2020, which we determined was the best approximation of fair value in the current social and economic environment. Based on our interim impairment assessment as of March 31, 2020, we have determined that no goodwill or intangible asset impairment has occurred and the fair value of goodwill exceeded our carrying value. We will continue to monitor and evaluate the carrying value of goodwill. We may be subject to impairments in the future depending on how long the economic and social conditions resulting from COVID-19 exist and its future impact on the broader economy.

2. Revenue

We account for revenue in accordance with ASC Topic 606: Revenue from Contracts with Customers.

Disaggregation of revenue

The following table disaggregates our revenue by market-type, as we believe it best depicts how the nature, amount, timing and uncertainty of our revenue and cash flows are affected by economic factors. Sales and usage-based taxes are excluded from revenues.

	Three Months Ended March 31, 2020			Three Months Ended March 31, 2019		
	United States	International	Total	United States	International	Total
	<i>(In thousands)</i>					
Food service technology	\$ 1,239	\$ 132	\$ 1,371	\$ 1,117	\$ 96	\$ 1,213
POS automation and banking	1,554	4	1,558	1,259	18	1,277
Casino and gaming	2,558	2,373	4,931	3,424	2,059	5,483
Lottery	—	—	—	697	—	697
Printrex	61	56	117	297	45	342
Transact Services Group	2,003	267	2,270	2,213	325	2,538
Total net sales	\$ 7,415	\$ 2,832	\$ 10,247	\$ 9,007	\$ 2,543	\$ 11,550

Contract balances

Our contract liabilities consist of customer pre-payments and deferred revenue. Customer prepayments are reported as “Accrued Liabilities” in current liabilities in the Condensed Consolidated Balance Sheets and represent customer payments made in advance of performance obligations in instances where credit has not been extended and are recognized as revenue when the performance obligation is complete. Deferred revenue is reported separately in current liabilities and non-current liabilities and consists of our extended warranty contracts, technical support for our food service technology terminals, EPICENTRAL™ maintenance contracts and testing service contracts and prepaid software subscriptions for our BOHA! software applications, and is recognized as revenue as (or when) we perform under the contract. We do not have any contract asset balances as of March 31, 2020 or December 31, 2019. For the first three months of 2020, we recognized revenue of \$406 thousand related to our contract liabilities at December 31, 2019. Total contract liabilities consist of the following:

	<u>March 31,</u> <u>2020</u>	<u>December 31,</u> <u>2019</u>
	<i>(In thousands)</i>	
Customer pre-payments	\$ 82	\$ 232
Deferred revenue, current	643	700
Deferred revenue, non-current	183	219
Total contract liabilities	<u>\$ 908</u>	<u>\$ 1,151</u>

Remaining performance obligations

Remaining performance obligations represent the transaction price of firm orders for which a good or service has not been delivered to our customer. As of March 31, 2020, the aggregate amount of transaction prices allocated to remaining performance obligations was \$4.4 million. The Company expects to recognize revenue on \$4.2 million of its remaining performance obligations within the next 12 months, \$0.1 million within the next 24 months and the balance of these remaining performance obligations within the next 36 months.

3. Note receivable

The note receivable balance relates to a loan given to a third party with an interest rate of 4.5%, which was due in April 2020. The note includes a lender recourse provision that enables us to apply payments that would have been due to the third party under a previously signed long-term royalty agreement towards the loan balance. A \$100 thousand royalty fee is scheduled to be paid to the third party in January 2021 that will instead be applied towards the note receivable balance as it becomes due. As a result, \$100 thousand of the balance was classified as current and the remaining \$1.5 million is expected to be reduced thereafter using the lender recourse provision. Notes receivable are stated at unpaid balances and interest income is recognized on the accrual method. For the three months ended March 31, 2020 we recorded \$13 thousand of interest income. As of March 31, 2020, we have no allowances for loan losses, unamortized deferred loan fees or unearned discounts.

4. Inventories, net

The components of inventories, net were:

	<u>March 31,</u> <u>2020</u>	<u>December 31,</u> <u>2019</u>
	<i>(In thousands)</i>	
Raw materials and purchased component parts	\$ 9,071	\$ 7,724
Work-in-process	7	-
Finished goods	3,508	4,375
	<u>\$ 12,586</u>	<u>\$ 12,099</u>

5. Accrued product warranty liability

We generally provide warranties on our products for up to 24 months and record the estimated cost of such product warranties at the time the sale is recorded. Estimated warranty costs are based upon actual past experience of product repairs and the related estimated cost of labor and material to make the necessary repairs.

The following table summarizes the activity recorded in the accrued product warranty liability during the three months ended March 31, 2020 and 2019:

	Three Months Ended	
	March 31,	
	2020	2019
	<i>(In thousands)</i>	
Balance, beginning of period	\$ 215	\$ 273
Warranties issued	45	40
Warranty settlements	<u>(47)</u>	<u>(60)</u>
Balance, end of period	<u>\$ 213</u>	<u>\$ 253</u>

As of March 31, 2020, \$171 thousand of the accrued product warranty liability was classified as current in "Accrued liabilities" in the Condensed Consolidated Balance Sheets and the remaining \$42 thousand was classified as non-current in "Other liabilities".

6. Credit Facility

On March 13, 2020, we entered into a new credit facility (the "Siena Credit Facility") with Siena Lending Group LLC. The Siena Credit Facility provides for a revolving credit line of up to \$10 million expiring on March 13, 2023. Borrowings under the Siena Credit Facility bear a floating rate of interest equal to the greatest of (i) the prime rate plus 1.75%, (ii) the federal funds rate plus 2.25%, and (iii) 6.50%. The total deferred financing costs related to expenses incurred to complete the Siena Credit Facility was \$234 thousand. We also pay a fee of 0.50% on unused borrowings under the facility. Borrowings under the facility are secured by a lien on substantially all the assets of the Company. The Siena Credit Facility imposes a minimum EBITDA financial covenant on the Company and borrowings are subject to a borrowing base based on (i) 85% of eligible accounts receivable plus the lesser of (a) \$5 million and (b) 50% of eligible raw material and 60% of finished goods inventory. As of March 31, 2020 we had \$6.8 million of additional borrowing capacity available under the Siena Credit Facility. We were in compliance with the financial covenant of the Siena Credit Facility at March 31, 2020.

7. Earnings per share

The following table sets forth the reconciliation of basic weighted average shares outstanding and diluted weighted average shares outstanding:

	Three Months Ended	
	March 31,	
	2020	2019
	<i>(In thousands, except per share data)</i>	
Net income (loss)	<u>\$ (992)</u>	<u>\$ 746</u>
Shares:		
Basic: Weighted average common shares outstanding	7,507	7,461
Add: Dilutive effect of outstanding options and restricted stock units as determined by the treasury stock method	<u>–</u>	<u>158</u>
Diluted: Weighted average common and common equivalent shares outstanding	<u>7,507</u>	<u>7,619</u>
Net income (loss) per common share:		
Basic	\$ (0.13)	\$ 0.10
Diluted	\$ (0.13)	\$ 0.10

The computation of diluted earnings per share excludes the effect of the potential exercise of stock awards, including stock options and restricted stock units, when the average market price of the common stock is lower than the exercise price of the related stock award during the period, as the inclusion of these stock awards in the computation of diluted earnings would be anti-dilutive. For the three months ended March 31, 2020 and 2019, there were 708 thousand and 540 thousand, respectively, of potentially dilutive shares consisting of stock awards that were excluded from the calculation of earnings per diluted share. Regarding the three months ended March 31, 2020, when a net loss is reported, basic and diluted net loss per common share are calculated using the same method.

8. Shareholders' equity

For the three months ended March 31, 2019, dividends declared and paid totaled \$668 thousand, or \$0.09 per share. On January 23, 2020, our Board of Directors announced the cessation of our quarterly cash dividend on the Company's common stock. The final dividend payment was made in December 2019.

9. Leases

We account for leases in accordance with ASC Topic 842: Leases.

We enter into lease agreements for the use of real estate space and certain other equipment under operating leases and we have no financing leases. Our leases are included in Right of use assets and Lease liabilities in our Condensed Consolidated Balance Sheet. Our leases have remaining lease terms of one year to seven years, some of which include options to extend. The majority of our leases with options to extend provide for extensions of up to five years with the ability to terminate the lease within one year. Our right of use asset and lease liability was higher on March 31, 2020 compared to December 31, 2019, million, respectively due to the extension of one of our leases. On February 28, 2020, we entered into an amendment to extend the lease on our facility in Ithaca, New York which resulted in recording an additional right of use asset and lease liability of \$1.5 million. The lease, which was last amended on January 14, 2016, was scheduled to expire on May 31, 2021. The lease amendment provides for an extension of the lease for four additional years from June 1, 2021 to May 31, 2025. Lease expense is recognized on a straight-line basis over the lease term.

Operating lease expense for the three months ending March 31, 2020 and December 31, 2019 was \$251 thousand and \$237 thousand, respectively, and was included within Cost of sales, Engineering, design and product development expense, Selling and marketing expense, and General and administrative expense. Operating costs include short-term lease costs which were immaterial during the period.

The following information represents supplemental disclosure for the statement of cash flows related to operating leases (in thousands):

	Three Months Ended	
	March 31,	
	2020	2019
Operating cash outflows from leases	\$ 259	\$ 257

The following summarizes additional information related to our leases as of March 31, 2020 and December 31, 2019:

	March 31,	December 31,
	2020	2019
Weighted average remaining lease term (in years)	5.6	5.0
Weighted average discount rate	4.1%	3.7%

The maturity of the Company's operating lease liabilities as of March 31, 2020 and 2019 are as follows (in thousands):

	March 31,	December 31,
	2020	2019
2020	\$ 780	\$ 1,042
2021	967	711
2022	875	434
2023	709	268
2024	714	273
Thereafter	797	616
Total undiscounted lease payments	4,842	3,344
Less imputed interest	506	295
Total lease liabilities	\$ 4,336	\$ 3,049

10. Income taxes

We recorded an income tax benefit for the first quarter of 2020 of \$465 thousand at an effective tax rate of 31.9%, compared to an income tax provision during the first quarter of 2019 of \$115 thousand at an effective tax rate of 13.4%. The effective tax rate for the first quarter of 2020 was higher as it included the impact of our anticipated net operating loss ("NOL") that we expect to incur during 2020 and to carry back to prior years, which was recorded discretely. The CARES Act was enacted on March 27, 2020 and permits NOLs incurred in 2018, 2019 and 2020 to be carried back to each of the five preceding taxable years to generate a refund of previously paid income taxes. We expect to generate a NOL in 2020 which we will carry back to tax years that had a federal statutory tax rate of 34% compared to 21% in 2020.

We are subject to U.S. federal income tax, as well as income tax in certain U.S. state and foreign jurisdictions. We have substantially concluded all U.S. federal, state and local income tax, and foreign tax regulatory examination matters through 2015. However, our federal tax returns for the years 2016 through 2018 remain open to examination. Various U.S. state and foreign tax jurisdiction tax years remain open to examination as well, but we believe that any additional assessment would be immaterial to the Condensed Consolidated Financial Statements.

As of March 31, 2020, we had \$107 thousand of total gross unrecognized tax benefits that, if recognized, would favorably affect the effective income tax rate in any future periods. We expect that \$27 thousand of the \$107 thousand of unrecognized tax benefits will reverse in 2020 upon the expiration of the statute of limitations.

We recognize interest and penalties related to uncertain tax positions in the income tax provision reported as "Deferred tax assets" in the Condensed Consolidated Balance Sheet. As of March 31, 2020, we had \$21 thousand of accrued interest and penalties related to uncertain tax positions. The Company maintains a valuation allowance against certain deferred tax assets where realization is not certain.

11. Subsequent Events

On May 1, 2020 (the "Loan Date"), the Company was granted a PPP Loan from Berkshire Bank in the aggregate amount of \$2.2 million, pursuant to the PPP administered by the SBA and established under Division A, Title I of the CARES Act.

The PPP Loan, which is evidenced by a Note dated the Loan Date issued by the Company (the "Note"), matures on May 1, 2022 and bears interest at a fixed rate of 1.0% per annum, accruing from the Loan Date and payable monthly. No payments are due on the PPP Loan for six months from the date of first disbursement, but interest will continue to accrue during the deferment period. The Note is unsecured and guaranteed by the SBA. The Note may be prepaid by the Company at any time prior to maturity with no prepayment penalties. The Note provides for customary defaults, including failure to make payment when due or to fulfill the Company's obligations under the Note or related documents, reorganizations, mergers, consolidations or other changes to the Company's business structure, and certain defaults on other indebtedness, bankruptcy events, adverse changes in financial condition or civil or criminal actions. The PPP Loan may be accelerated upon the occurrence of a default.

Under the terms of the PPP, the PPP Loan may be forgiven to the extent that funds from the PPP Loan are used for payroll costs and costs to continue group health care benefits, as well as for interest on mortgage obligations incurred before February 15, 2020, rent under lease agreements in effect before February 15, 2020, utilities for which service began before February 15, 2020, and interest on debt obligations incurred before February 15, 2020 (collectively, "qualifying expenses"), subject to conditions and limitations provided in the CARES Act. At least 75% of such forgiven amounts must be used for eligible payroll costs. The Company intends to maximize the use of PPP Loan proceeds for qualifying expenses and intends to apply for forgiveness of the PPP Loan in accordance with the terms of the CARES Act. Whether forgiveness will be granted and in what amount is subject to an application to, and approval by, the SBA and may also be subject to further requirements in any regulations and guidelines the SBA may adopt.

Forward Looking Statements

Certain statements included in this Quarterly Report on Form 10-Q for the period ended March 31, 2020 (this "Report"), including without limitation statements in this Management's Discussion and Analysis of Financial Condition and Results of Operations, which are not historical facts are "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act") and the Private Securities Litigation Reform Act of 1995. Forward-looking statements generally can be identified by the use of forward-looking terminology, such as "may", "will", "expect", "intend", "estimate", "anticipate", "believe", "project" or "continue" or the negative thereof or other similar words. All forward-looking statements involve risks and uncertainties, including, but not limited to those listed in Part 1, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2019, in Part II, Item 1A of this report and in our other filings with the SEC. Actual results may differ materially from those discussed in, or implied by, the forward-looking statements. The forward-looking statements speak only as of the date of this Report and we assume no duty to update them. As used in this Report, unless the context otherwise requires, references to "we", "us", "our", the "Company" and "TransAct" refer to the consolidated operations of TransAct Technologies Incorporated, and its consolidated subsidiaries.

Overview

TransAct is a global leader in developing and selling software-driven technology and printing solutions for high growth markets including food service technology, point of sale ("POS") automation and banking, casino and gaming, lottery, and oil and gas. Our world-class products are designed from the ground up based on market and customer requirements and are sold under the BOHA![™], AccuDate[™], Epic[®], EPICENTRAL[™], Ithaca[®], and Printrex[®] brand names. Known and respected worldwide for innovative designs and real-world service reliability, our thermal and inkjet printers and terminals generate top-quality labels, coupons and transaction records such as receipts, tickets and other documents, as well as printed logging and plotting of data. We sell our technology to original equipment manufacturers ("OEMs"), value-added resellers, select distributors, as well as directly to end-users. Our product distribution spans across the Americas, Europe, the Middle East, Africa, Asia, Australia, New Zealand, Latin America, the Caribbean Islands and the South Pacific. We also offer world-class service, support, labels, spare parts, accessories and printing supplies to our growing worldwide base of products currently in use by our customers. Through our TransAct Services Group ("TSG"), we provide a complete range of supplies and consumables used in the printing and scanning activities of customers in the restaurant and hospitality, banking, retail, casino and gaming, government and oil and gas exploration markets. Through our webstore, www.transactsupplies.com, and our direct selling team, we address the demand for these products. We operate in one reportable segment, the design, development, and marketing of software-driven technology and printing solutions for high growth markets, and provide related services, supplies and spare parts.

Impact of COVID-19

In December 2019, a novel strain of coronavirus and the disease it causes, commonly known as COVID-19, was first reported in China and has since widely impacted the global public health and economic environment. In March 2020, the World Health Organization declared COVID-19, including all additional variations and strains thereof, a global pandemic. Our business trends through the first two months of the year were in line with internal expectations; however, the challenges posed by the COVID-19 pandemic on the United States and global economy increased significantly as the first quarter progressed in March 2020. Unfortunately, massive disruptions across the world persist as of the date of this Report due to COVID-19 and the measures implemented to mitigate its spread continue to cause widespread business, government and school closures that especially affect the casino and gaming and food service industries. We expect such disruptions to continue to negatively impact our overall business for the foreseeable future.

As a result of the COVID-19 pandemic and measures implemented to mitigate the spread of COVID-19, we have experienced decreased demand for our products and lower than anticipated sales in the second half of March 2020, particularly from our food service and casino customers. This trend has continued through April and into May 2020, and we expect it to continue for the remainder of the second quarter of 2020, and likely through the end of 2020. Based on sales orders booked for the second quarter to date, we expect that sales for the second quarter of 2020 will be significantly lower compared to the first quarter of 2020. Below is a discussion of the impact of COVID-19 we have experienced and believe we will continue to experience in each of our markets.

Food service technology and POS automation. In both our food service and POS automation markets, many restaurants and food service establishments are currently closed, and those that remain open are doing so under restrictions that limit them to providing drive through, take out or delivery service without dine-in options, as well as limiting the volume of customers and employees on site at any one time. Though some are considering re-opening dine-in service in the near term, we believe such service offerings will be gradual, beginning with outdoor seating only, and progressing to indoor dining with seating limitations based on social distancing guidelines. In addition, many food service providers will need to develop and implement new or enhanced policies and operating procedures regarding cleaning, sanitizing and social distancing to ensure the safety of their employees and customers. As our customers begin to reopen and recover from the financial impact of being closed for several months, we expect new capital expenditures to be a lower priority for them in the near term, which we believe will negatively impact sales of BOHA! hardware, software and label products, as well as sales of POS printers. However, we believe we have an opportunity in the long run as our BOHA! software solutions could prove to be helpful to our food service customers in efficiently and effectively managing and complying with these new procedures, especially as many establishments will likely be operating with reduced staff levels.

Casino and gaming. In the casino and gaming market, most casinos and other gaming establishments have closed worldwide and remain shut down. However, casinos in Macau have recently begun to open and a small number of U.S. casinos have announced plans to begin to open later in May. Similar to restaurants, we believe casino openings, when they begin, will be slow and measured, starting at reduced capacity with limited game play based on social distancing guidelines, and progressively increasing capacity over time. As casinos begin to reopen and recover from the financial impact of being closed for several months, we expect that casinos' appetite for purchases of new slot machines will be diminished, which we believe will negatively impact sales of casino and gaming printers purchased by slot manufacturers for use in slot machines at casinos. We believe these effects will continue even after operating restrictions are lifted in the event that the downturn in economic conditions persists.

Lottery. We exited the lottery market at the end of 2019 and expect IGT to make a final purchase of our lottery printer during the second quarter of 2020. Therefore, we do not anticipate that COVID-19 will impact our lottery printer sales.

Printrex. The oil and gas market has been negatively impacted by the decline in worldwide oil prices attributable to the COVID-19 pandemic. Due to the uncertainty of current and future market conditions, we believe sales of our Printrex oil and gas printers will be negatively impacted until oil and gas prices recover.

TSG. Due to closures and reduced operating capacity of restaurants, food service establishments, casinos and other gaming establishments resulting from the COVID-19 pandemic, we expect sales of spare parts, service and consumable products to also decline correspondingly due to lower usage while the pandemic persists.

We also expect our gross margin to be negatively impacted by the COVID-19 pandemic. As a result of an expected significantly lower sales level, we believe our gross margin will decline due to fixed manufacturing overhead expenses (such as facility costs, depreciation, etc.) that cannot be reduced or eliminated even with the lower sales level.

We have also experienced supply chain disruptions, including delayed product shipments from our two contract manufacturers located in China and Thailand that conduct approximately 80% and 19%, respectively, of our printer and terminal manufacturing, due to reduced operations at these facilities, which are not yet operating at full capacity. To date, these disruptions have only minimally impacted deliveries to customers due to our high inventory levels and reduced demand for our products. However, if the delays are sustained, they could lead to insufficient inventory levels and impair our ability to deliver products to our customers on time or at all.

While it is difficult to predict the magnitude of the impact that the pandemic and the responsive measures will have on our customers and our business, we have taken several actions to manage our expenses during these turbulent and uncertain times. Such steps include:

- the temporary furlough of approximately 10% of our workforce prior to receiving PPP loan proceeds;
- a 10% reduction in the salaries of all salaried, non-commissioned employees, including executive officers,
- a reduction in sales commissions for all commissioned employees;
- a 10% reduction of cash retainer fees for all non-employee director; and
- the elimination of discretionary spending wherever possible.

In addition, we have taken further measures to increase liquidity, including the following:

- PPP Loan - On May 1, 2020, the Company was granted a \$2.2 million loan under the Paycheck Protection Program (the "PPP Loan") administered by the Small Business Administration ("SBA") established under the Coronavirus Aid, Relief, and Economic Security ("CARES") Act, which has enabled us to return our furloughed employees to full time employment.
- New Credit Facility - We also secured a new revolving credit facility with Siena Lending Group LLC that provides a revolving credit line of up to \$10 million, subject to a borrowing base
- Reduced Capital Expenditures - We also have limited capital expenditures until market conditions improve.

Since the onset of the pandemic, our top priority has been to ensure the health and safety of our employees while continuing to provide our customers with high-quality, personalized service. On March 20, 2020, we instituted work-from-home for the majority of our employees to reduce the spread of COVID-19 and to comply with government mandates. Our existing remote work capabilities, which include providing employees with laptop computers and remote access to our IT systems, mitigated reductions in employee productivity and costs related to the implementation of work-from-home practices in connection with the COVID-19 pandemic. In addition, even with the move to work-from-home, our existing internal control structure remained operational and unchanged.

Our distribution centers, deemed an essential service, remain operational. We implemented a new COVID-19 policy to specifically address health and safety guidelines for employees to adhere to and follow when at work or returning to work. This policy was based on the COVID-19 safety guidelines recommended from the Centers for Disease Control and Prevention and includes:

- staggered shifts and a rotational/flexible work schedule to keep the number of employees at a facility to a minimum;
- providing and requiring the use of protective equipment such as masks and gloves when in common areas;
- spacing seating in workspaces such as manufacturing cells, lunch/break rooms, conference rooms and other common areas to comply with social distancing guidelines;
- requiring any employee who (i) shows symptoms of COVID-19 or (ii) has been exposed to someone else who shows symptoms or has tested positive for COVID-19 not to return to work for fourteen days;
- prohibiting any visitors from entering any facility;
- implementing daily cleaning and disinfecting protocols at all facilities; and
- daily temperature taking of all employees before entering all facilities.

We have evaluated the recoverability of the assets on our unaudited condensed consolidated balance sheet as of March 31, 2020 in accordance with relevant authoritative accounting literature. We considered the disruptions caused by the COVID-19 pandemic, including lower than previously forecasted sales and customer demand, a decline in the price of our common stock and macroeconomic factors potentially impacting accounts receivable, inventory, investments, intangible assets, goodwill and other assets and liabilities. Where forward-looking estimates are required, we made a good-faith estimate based on information available as of the balance sheet date. We have continued to monitor for indicators of impairment through the date of this Report and reflected accordingly in the accompanying condensed consolidated financial statements.

Notwithstanding the foregoing, there is no assurance that the actions we have taken in response to the pandemic are sufficient or adequate, and we may be required to take additional preventive or responsive measures, as the ultimate extent of the effects of the COVID-19 pandemic on the Company, our financial condition, results of operations, liquidity, and cash flows are uncertain and are dependent on evolving developments which cannot be predicted at this time. See the Part II, Item 1A, ‘Risk Factors’ of this Report for further discussion of risks related to COVID-19.

Critical Accounting Judgments and Estimates

Our discussion and analysis of our financial condition and results of operations are based upon our Condensed Consolidated Financial Statements, which have been prepared by us in accordance with accounting principles generally accepted in the United States of America. The presentation of these financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, revenue and expenses, and the disclosure of contingent assets and liabilities. Our estimates include those related to revenue recognition, inventory obsolescence, the valuation of deferred tax assets and liabilities, depreciable lives of equipment, warranty obligations, and contingent liabilities. We base our estimates on historical experience and on various other assumptions that we believe to be reasonable under the circumstances.

Goodwill and Intangible Assets – We acquire businesses in purchase transactions that result in the recognition of goodwill and intangible assets. The determination of the value of intangible assets requires management to make estimates and assumptions. In accordance with ASC 350-20 ‘Goodwill’, acquired goodwill is not amortized, but is subject to impairment testing at least annually and when an event occurs or circumstances change, which indicates it is more likely than not an impairment exists. As a result of the effect of COVID-19 on overall economic trends, the Company’s operating results and the decrease in the Company’s share price as of March 31, 2020, management determined that potential impairment triggers had occurred and performed impairment testing as of March 31, 2020. We have determined that no goodwill or intangible asset impairment has occurred and the fair value of goodwill was higher than our carrying value based on our assessment as of March 31, 2020 when the impairment review was performed.

For a complete description of our accounting policies other than goodwill and intangible assets, see Part II, Item 7, ‘Management’s Discussion and Analysis of Financial Condition and Results of Operations – Critical Accounting Policies and Estimates,’ of our Annual Report on Form 10-K for the year ended December 31, 2019. We have reviewed those policies and determined that they remain our critical accounting policies for the three months ended March 31, 2020.

Results of Operations: Three months ended March 31, 2020 compared to three months ended March 31, 2019

Net Sales. Net sales, which include printer, terminal and software sales, as well as sales of replacement parts, consumables and maintenance and repair services, by market for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages). We have reclassified sales of labels and other recurring revenue items, which includes extended warranty and service contracts, and technical support services related to our food service technology market, previously included in TSG, to Food service technology for all periods presented in this Report.

	Three Months Ended		Three Months Ended		\$ Change	% Change
	March 31, 2020		March 31, 2019			
Food service technology	\$ 1,371	13.4%	\$ 1,213	10.5%	\$ 158	13.0%
POS automation and banking	1,558	15.2%	1,277	11.1%	281	22.0%
Casino and gaming	4,931	48.1%	5,483	47.4%	(552)	(10.1%)
Lottery	-	0.0%	697	6.0%	(697)	(100.0%)
Printrex	117	1.1%	342	3.0%	(225)	(65.8%)
TSG	2,270	22.2%	2,538	22.0%	(268)	(10.6%)
	<u>\$ 10,247</u>	<u>100.0%</u>	<u>\$ 11,550</u>	<u>100.0%</u>	<u>\$ (1,303)</u>	<u>(11.3%)</u>
International *	\$ 2,832	27.6%	\$ 2,543	22.0%	\$ 289	11.4%

* International sales do not include sales of printers and terminals made to domestic distributors or other domestic customers who may, in turn, ship those printers and terminals to international destinations.

Net sales for the first quarter of 2020 decreased \$1.3 million, or 11%, from the same period in 2019. Printer, terminal and other hardware sales volume decreased 12% to approximately 25,000 units, driven primarily by no sales volume of lottery printers due to our decision to exit the lottery market at the end of 2019 and a 10% decrease in unit volume in the casino and gaming market, partially offset by a 22% increase in unit volume from the POS automation and banking market for the first quarter of 2020 compared to the first quarter of 2019. The average selling price of our printers, terminals and other hardware decreased 4% for the first quarter of 2020 compared to the first quarter of 2019 due primarily to higher POS automation and banking sales, which sell at a lower price than our other products.

International sales for the first quarter of 2020 increased \$0.3 million, or 11%, from the same period in 2019 primarily due to increased sales in the international casino and gaming market.

Food service technology. The primary offering in the food service technology market is our BOHA! ecosystem, which combines our latest generation terminal, cloud-based software applications and related hardware into a unique solution to automate back-of-house operations in restaurants and food service operations. The software component of BOHA! consists of a suite of software-as-a-service (“SaaS”)-based applications, including applications for inventory management, temperature monitoring of food and equipment, timers, food safety labeling, food recalls, checklists and procedures, equipment service management, and delivery management. These applications are combined into a single platform with the associated hardware, which includes the BOHA! terminal, handheld devices, tablets, temperature probes and temperature sensors. The BOHA! terminal combines the software and hardware components in a device that includes an operating system, touchscreen and one or two thermal print mechanisms that print easy-to-read food rotation labels, grab and go labels for prepared foods, and “enjoy by” date labels. The BOHA! terminal is equipped with the TransAct Enterprise Management System to ensure that only approved applications and functions are available on the device and allows over-the-air updates to the applications and operating system. BOHA! helps food service establishments and restaurants (including fine dining, casual dining, fast casual and quick-serve restaurants, convenience stores, hospitality establishments and contract food service providers) effectively manage food safety and grab-and-go initiatives, as well as automate and manage back-of-house operations. Recurring revenue from BOHA! is generated by software sales, including software subscriptions that are charged to customers upfront on a per-application basis, as well as sales of labels, extended warranty and service contracts, and technical support services. Sales of our worldwide food service technology products for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages):

	Three Months Ended		Three Months Ended		\$ Change	% Change
	March 31, 2020		March 31, 2019			
Domestic	\$ 1,239	90.4%	\$ 1,117	92.1%	\$ 122	10.9%
International	132	9.6%	96	7.9%	36	37.5%
	<u>\$ 1,371</u>	<u>100.0%</u>	<u>\$ 1,213</u>	<u>100.0%</u>	<u>\$ 158</u>	<u>13.0%</u>

	Three Months Ended		Three Months Ended		\$ Change	% Change
	March 31, 2020		March 31, 2019			
Hardware	\$ 755	55.1%	\$ 903	74.4%	\$ (148)	(16.4%)
Software, labels and other recurring revenue	616	44.9%	310	25.6%	306	98.7%
	<u>\$ 1,371</u>	<u>100.0%</u>	<u>\$ 1,213</u>	<u>100.0%</u>	<u>\$ 158</u>	<u>13.0%</u>

The increase in food service technology sales for the first quarter of 2020 compared to the first quarter of 2019 was driven primarily by sales of our BOHA! software, labels and other recurring revenue. Sales of BOHA! software, recognized on a SaaS subscription basis, labels and other recurring revenue increased by 99%, including an 88% increase in label sales and a 385% increase in software sales, compared to the prior year period, though such sales had a low base for first quarter of 2019 following the launch of BOHA! in March 2019. Hardware sales declined approximately 16% primarily due to the initial impact from the COVID-19 pandemic that resulted in widespread store closings and/or substantially reduced operations.

POS automation and banking. Revenue from the POS automation and banking market includes sales of thermal printers used primarily by quick serve restaurants located either at the checkout counter or within self-service kiosks to print receipts for consumers or print on linerless labels. Prior to 2020, revenue included sales of inkjet printers used by banks, credit unions and other financial institutions to print deposit or withdrawal receipts and/or validate checks at bank teller stations. We exited the banking market during 2019. Sales of our worldwide POS automation and banking products for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages):

	Three Months Ended March 31, 2020		Three Months Ended March 31, 2019		\$ Change	% Change
Domestic	\$ 1,554	99.7%	\$ 1,259	98.6%	\$ 295	23.4%
International	4	0.3%	18	1.4%	(14)	(77.8%)
	<u>\$ 1,558</u>	<u>100.0%</u>	<u>\$ 1,277</u>	<u>100.0%</u>	<u>\$ 281</u>	<u>22.0%</u>

The increase in POS automation and banking product revenue for the first quarter of 2020 compared to the first quarter of 2019 was driven primarily by a 25% increase in sales of our Ithaca® 9000 printer, in large part from increased sales to McDonald's.

Casino and gaming. Revenue from the casino and gaming market includes sales of thermal ticket printers used in slot machines, video lottery terminals, and other gaming machines that print tickets or receipts instead of issuing coins at casinos and racetracks and other gaming venues worldwide. Revenue from this market also includes sales of thermal roll-fed printers used in the international off-premise gaming market in gaming machines such as Amusement with Prizes, Skills with Prizes and Fixed Odds Betting Terminals at non-casino gaming establishments. Revenue from this market also includes royalties related to our patented casino and gaming technology. In addition, casino and gaming market revenue includes sales of the EPICENTRAL™ print system, our software solution (including annual software maintenance), that enables casino operators to create promotional coupons and marketing messages and to print them real-time at the slot machine. Sales of our worldwide casino and gaming products for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages):

	Three Months Ended March 31, 2020		Three Months Ended March 31, 2019		\$ Change	% Change
Domestic	\$ 2,558	51.9%	\$ 3,424	62.4%	\$ (866)	(25.3%)
International	2,373	48.1%	2,059	37.6%	314	15.3%
	<u>\$ 4,931</u>	<u>100.0%</u>	<u>\$ 5,483</u>	<u>100.0%</u>	<u>\$ (552)</u>	<u>(10.1%)</u>

The decrease in domestic sales of our casino and gaming products for the first quarter of 2020 compared to the first quarter of 2019 was primarily due to a 24% decrease in domestic sales of our thermal gaming printers driven primarily by industry-wide weakness resulting in lower sales to our OEMs as they began to experience the impact of casino closures due to the COVID-19 pandemic in late March. We had no new EPICENTRAL™ software installations during the first quarter of 2020 or 2019. Sales of domestic EPICENTRAL™ are project based and as a result, may fluctuate significantly quarter-to-quarter and year-to-year.

International casino and gaming product sales increased for the first quarter of 2020 compared to the first quarter of 2019 due to a 17% increase in sales of our thermal casino printers largely from resumed sales to a large OEM in Europe who had substantially reduced sales during 2019. This increase was somewhat offset by lower sales to an Asian OEM.

Lottery. Revenue from the lottery market includes sales of thermal on-line and other lottery printers primarily to International Game Technology and its subsidiaries ("IGT"). Sales of our worldwide lottery printers for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages):

	Three Months Ended March 31, 2020		Three Months Ended March 31, 2019		\$ Change	% Change
Domestic	\$ -	0.0%	\$ 697	100.0%	\$ (697)	(100.0%)
International	-	0.0%	-	0.0%	-	0.0%
	<u>\$ -</u>	<u>0.0%</u>	<u>\$ 697</u>	<u>100.0%</u>	<u>\$ (697)</u>	<u>(100.0%)</u>

Our sales to IGT are directly dependent on the timing and number of new and upgraded lottery terminal installations that IGT performs, and as a result, may fluctuate significantly quarter-to-quarter and year-to-year. Our sales to IGT are not indicative of IGT's overall business or revenue. On December 31, 2019, we allowed our non-exclusive agreement to provide lottery terminal printers to IGT to expire as we have decided to exit the lottery market and to shift our focus towards our higher-value, technology enabled food service technology and casino and gaming products. As a result, we expect IGT to make a final purchase of our lottery printers during the second quarter of 2020 and we expect full year 2020 lottery sales to be less than 2019 full year lottery sales.

Printrex. Printrex branded printers are sold into markets that include wide format, desktop and rack mounted and vehicle mounted black/white thermal printers used by customers to log and plot oil field, seismic and down hole well drilling data in the oil and gas exploration industry. It also includes high-speed color inkjet desktop printers used to print logs at the data centers of the oil and gas field service companies. Sales of our worldwide Printrex printers for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages):

	Three Months Ended		Three Months Ended		\$ Change	% Change
	March 31, 2020		March 31, 2019			
Domestic	\$ 61	52.1%	\$ 297	86.8%	\$ (236)	(79.5%)
International	56	47.9%	45	13.2%	11	24.4%
	<u>\$ 117</u>	<u>100.0%</u>	<u>\$ 342</u>	<u>100.0%</u>	<u>\$ (225)</u>	<u>(65.8%)</u>

The decrease in sales of Printrex printers for the first quarter of 2020 compared to the first quarter of 2019 resulted primarily from lower domestic sales in the oil and gas market which was negatively impacted by the decline in worldwide oil prices attributable to the COVID-19 pandemic. Due to the uncertainty of current and future market conditions, attributable to the COVID-19 pandemic, we are unable to reasonably estimate the ultimate impact to our Printrex market, but we expect Printrex sales in fiscal year 2020 to be less than Printrex sales in fiscal year 2019.

TSG. Revenue generated by our TSG includes sales of consumable products (inkjet cartridges, ribbons, receipt paper, and other printing supplies), replacement parts, maintenance and repair services, testing services, refurbished printers, and shipping and handling charges. TSG sales for all periods presented in this Report exclude the sales of labels, extended warranty and service contracts, and technical support services related to our food service technology market, which have been reclassified to Food Service Technology. Sales in our worldwide TSG market for the three months ended March 31, 2020 and 2019 were as follows (in thousands, except percentages):

	Three Months Ended		Three Months Ended		\$ Change	% Change
	March 31, 2020		March 31, 2019			
Domestic	\$ 2,003	88.2%	\$ 2,213	87.2%	\$ (210)	(9.5%)
International	267	11.8%	325	12.8%	(58)	(17.8%)
	<u>\$ 2,270</u>	<u>100.0%</u>	<u>\$ 2,538</u>	<u>100.0%</u>	<u>\$ (268)</u>	<u>(10.6%)</u>

The decrease in domestic revenue from TSG for the first quarter of 2020 as compared to the first quarter of 2019 was primarily due to a 58% decline in consumable sales due largely to lower sales of HP inkjet cartridges used in our banking printers, as we exited the banking market at the end of 2018, and to a lesser extent, lower sales of legacy POS printer paper. This decrease was partially offset by 42% higher sales of replacement parts, primarily from higher lottery printer spare parts to IGT which can vary significantly from quarter to quarter. We expect TSG sales to decrease for the full year 2020 compared to 2019 due to lower expected sales of lottery printer spare parts to IGT as we exited the lottery market at the end of 2019 and lower service sales related to a service contract with a banking customer that is expected to end in 2020.

Internationally, TSG revenue decreased for the first quarter of 2020 compared to the first quarter of 2019 primarily due to a 30% decrease in sales of replacement parts and accessories to international casino and gaming customers.

Gross Profit. Gross profit information for the three months ended March 31, 2020 and 2019 is summarized below (in thousands, except percentages):

Three Months Ended		Percent Change	Percent of Total Sales - 2020	Percent of Total Sales - 2019
March 31,				
2020	2019			
\$ 4,918	\$ 6,086	(19.2%)	48.0%	52.7%

Gross profit is measured as revenue less cost of sales, which includes primarily the cost of all raw materials and component parts, direct labor, manufacturing overhead expenses, cost of finished products purchased directly from our contract manufacturers and expenses associated with installations and support of our EPICENTRAL™ print system and BOHA! ecosystem. For the first quarter of 2020, gross profit decreased \$1.2 million, or 19%, due largely to a sales decrease of 11% for the first quarter in 2020 compared to the first quarter of 2019 and tariffs on imports from our contract manufacturers located in China. Our gross margin decreased 470 basis points, to 48% for the first quarter of 2020 compared to 52.7% for the first quarter of 2019. The decreased gross margin resulted from higher sales of POS printers, which carry lower margins than our other products, higher tariff expense incurred during the first quarter of 2020 and the impact of fixed overhead expenses on lower sales volume as a result of the initial effects of the COVID-19 pandemic.

Operating Expenses - Engineering, Design and Product Development. Engineering, design and product development information for the three months ended March 31, 2020 and 2019 is summarized below (in thousands, except percentages):

Three Months Ended March 31,		Percent Change	Percent of Total Sales - 2020	Percent of Total Sales - 2019
2020	2019			
\$ 1,385	\$ 1,165	18.9%	13.5%	10.1%

Engineering, design and product development expenses primarily includes salary and payroll related expenses for our hardware and software engineering staff, depreciation and design expenses (including prototype printer expenses, outside design, development and testing services, supplies and contract software development expenses). Engineering, design and product development expenses increased \$220 thousand, or 19%, for the first quarter of 2020 compared to the first quarter of 2019, primarily due to continued and expanded development for our food service technology products.

Operating Expenses - Selling and Marketing. Selling and marketing information for the three months ended March 31, 2020 and 2019 is summarized below (in thousands, except percentages):

Three Months Ended March 31,		Percent Change	Percent of Total Sales - 2020	Percent of Total Sales - 2019
2020	2019			
\$ 2,208	\$ 1,854	19.1%	21.5%	16.1%

Selling and marketing expenses primarily include salaries and payroll related expenses for our sales and marketing staff, sales commissions, travel expenses, expenses associated with the lease of sales offices, advertising, trade show expenses, public relations, e-commerce and other promotional marketing expenses. Selling and marketing expenses increased by \$354 thousand, or 19%, for the first quarter of 2020 compared to the first quarter of 2019 primarily due to the impact from the hiring of food service technology positions during 2019 and new and expanded marketing programs and promotions to support our food service technology products that were implemented prior to the COVID-19 outbreak. In response to the COVID-19 pandemic, we have postponed further increases in spending and have implemented a number of cost reduction initiatives that will reduce selling and marketing expenses in the near term.

Operating Expenses - General and Administrative. General and administrative information for the three months ended March 31, 2020 and 2019 is summarized below (in thousands, except percentages):

Three Months Ended March 31,		Percent Change	Percent of Total Sales - 2020	Percent of Total Sales - 2019
2020	2019			
\$ 2,620	\$ 2,290	14.4%	25.6%	19.8%

General and administrative expenses primarily include salaries, incentive compensation, and other payroll related expenses for our executive, accounting, human resources and information technology staff, expenses for our corporate headquarters, professional and legal expenses, telecommunication expenses, and other expenses related to being a publicly-traded company. General and administrative expenses increased \$330 thousand, or 14%, for the first quarter of 2020 compared to the first quarter of 2019 due primarily to higher professional and legal expenses.

Operating Income (Loss). Operating income (loss) information for the three months ended March 31, 2020 and 2019 is summarized below (in thousands, except percentages):

Three Months Ended March 31,		Percent Change	Percent of Total Sales - 2020	Percent of Total Sales - 2019
2020	2019			
\$ (1,295)	\$ 777	(266.7%)	(12.6%)	6.7%

Our operating income decreased \$2.1 million, or 267%, in the first quarter of 2020 compared to the first quarter of 2019 due to a decrease in sales of 11%, increase in operating expenses of 17% related to investments made in our food service technology market during 2020 prior to the COVID-19 outbreak, and a decrease in our gross margin of 470 basis points.

Interest. We recorded net interest income of \$3 thousand for the first quarter of 2020 compared to net interest expense of \$6 thousand for the first quarter of 2019 due to interest income earned on the note receivable during the 2020 period partially offsetting interest expense. We expect interest expense to increase in the full year 2020 compared to the full year 2019 due to anticipated borrowings from our revolving line of credit in 2020 resulting from the COVID-19 pandemic and the ramping up of investment in our food service technology market compared to no borrowings during 2019.

Other, net. We recorded other expense of \$165 thousand for the first quarter of 2020 compared to other income of \$90 thousand for the first quarter of 2019. We incurred other expense in the 2020 period primarily due to foreign currency exchange losses recorded by our U.K. subsidiary for the first quarter of 2020 compared to foreign currency exchange gains in the first quarter of 2019. Going forward, we may continue to experience more foreign exchange gains or losses depending on the level of sales to Europe through our U.K. subsidiary and the fluctuation in exchange rates of the Euro and Pound Sterling against the U.S. dollar, which may be impacted by volatility in global economic conditions due to the COVID-19 pandemic.

Income Taxes. We recorded an income tax benefit for the first quarter of 2020 of \$465 thousand at an effective tax rate of 31.9%, compared to an income tax provision during the first quarter of 2019 of \$115 thousand at an effective tax rate of 13.4%. The effective tax rate for the first quarter of 2020 was higher as it included the impact of net operating loss (“NOL”) that we expect to carry back to prior years. The CARES Act was enacted on March 27, 2020 and permits NOLs incurred in 2018, 2019 and 2020 to be carried back to each of the five preceding taxable years to generate a refund of previously paid income taxes. We expect to generate a NOL for 2020 which we will carry back to tax years that had a federal statutory tax rate of 34% compared to 21% in 2020.

Net Income. We reported a net loss for the first quarter of 2020 of \$992 thousand, or \$(0.13) per diluted share, compared to net income of \$746 thousand, or \$0.10 per diluted share, for the first quarter of 2019.

Liquidity and Capital Resources

Cash Flow
For the first three months of 2020, our cash and cash equivalents balance decreased \$3.6 million, or 85%, from December 31, 2019. We ended the first quarter of 2020 with \$0.6 million in cash and cash equivalents, of which \$0.1 million was held by our U.K. subsidiary, and \$0.8 million of outstanding borrowings under our revolving line of credit.

Operating activities: The following significant factors affected our cash used in operating activities of \$3.6 million for the first three months of 2020 as compared to cash used in operating activities of \$1.6 million for the first three months of 2019:

During the first three months of 2020:

- We reported a net loss of \$1.0 million.
- We recorded depreciation and amortization of \$0.2 million, and share-based compensation expense of \$0.2 million.
- Accounts receivable decreased \$0.1 million, or 1%, primarily to lower sales volume during the first three months of 2020.
- Inventory increased \$0.6 million, or 5%, due to the purchase of inventory during the first quarter of 2020 to support anticipated sales that did not occur due to the impact of the COVID-19 pandemic on our sales in March.
- Other current and long-term assets increased \$0.3 million, or 26%, due largely to advance payments made in the first quarter of 2020 for annual ERP software maintenance.
- Accounts payable decreased \$1.2 million, or 42%, due primarily to inventory purchases made towards the end of the fourth quarter of 2019 that were subsequently paid in the first quarter of 2020.
- Accrued liabilities and other liabilities decreased \$0.8 million, or 11%, due primarily to the payment of 2019 annual bonuses in March 2020.

During the first three months of 2019:

- We reported net income of \$0.7 million.
- We recorded depreciation and amortization of \$0.3 million, and share-based compensation expense of \$0.2 million.
- Accounts receivable decreased \$1.2 million, or 15%, due to the collection of receivables for 2018 sales.
- Inventory increased \$1.5 million, or 12%, due to the buildup of inventory on hand to support future anticipated sales of BOHA! hardware product for the food service technology market.
- Prepaid income taxes decreased \$0.1 million during the first quarter of 2019.
- Other current and long-term assets increased \$0.4 million, or 65%, due primarily to an advanced payment of royalty fees.
- Accounts payable decreased \$1.3 million, or 36%, due primarily to inventory purchases made towards the end of the fourth quarter of 2018 that were subsequently paid in the first quarter of 2019.
- Accrued liabilities and other liabilities decreased \$1 million, or 27%, due primarily to the payment of 2018 annual bonuses in March 2019.

Investing activities: Our capital expenditures, including capitalized software were \$0.3 million for the first three months of both 2020 and 2019. Expenditures in 2020 were primarily for computer and networking equipment, new product tooling equipment and leasehold improvements at our Las Vegas facility. Expenditures in 2019 were primarily for new product tooling equipment and, to a lesser extent, computer and networking equipment and leasehold improvements at our Ithaca facility. Additionally, during the first quarter of 2020, prior to widespread shutdowns in the United States in response to the COVID-19 pandemic, we loaned an additional \$0.6 million to an unaffiliated third party.

Capital expenditures and additions to capitalized software for 2020 were expected to be approximately \$1.1 million, primarily for new product tooling, new computer software and equipment purchases and leasehold improvements to support our food service technology market. In response to the COVID-19 pandemic we have curtailed portions of our planned capital expenditures until market conditions improve.

Financing activities: Financing activities provided \$0.9 million of cash during the first three months of 2020 from net borrowings of \$0.8 million from our Siena Credit Facility (defined below) and proceeds of \$0.4 million from stock option exercises, partially offset by the payment of financing costs associated with signing our Siena Credit Facility. During the first three months of 2019, we used \$0.9 million of cash from financing activities to pay dividends of \$0.7 million and \$0.2 million related to the relinquishment of shares to pay for withholding taxes on stock issued from our stock compensation plan.

Credit Facility and Borrowings

On March 13, 2020, we signed a new credit facility (the “Siena Credit Facility”) with Siena Lending Group LLC and terminated our TD Bank Credit Facility. The Siena Credit Facility provides for a revolving credit line of up to \$10 million expiring on March 13, 2023. Borrowings under the Siena Credit Facility bear a floating rate of interest equal to the greatest of (i) the prime rate plus 1.75%, (ii) the federal funds rate plus 2.25%, and (iii) 6.50%. The total deferred financing costs related to expenses incurred to complete the Siena Credit Facility was \$234 thousand. We also pay a fee of 0.50% on unused borrowings under the facility. Borrowings under the facility are secured by a lien on substantially all the assets of the Company. Borrowings under the Siena Credit Facility are subject to a borrowing base based on (i) 85% of eligible accounts receivable plus the lesser of (a) \$5 million and (b) 50% of eligible raw material and 60% of finished goods inventory.

The Siena Credit Facility imposes a quarterly financial covenant on the Company and restricts, among other things, our ability to incur additional indebtedness and the creation of other liens. The first period we will be subject to the financial covenant, which require the Company to maintain a minimum EBITDA, is the three months ending June 30, 2020. As of March 31, 2020, we had \$0.8 million of outstanding borrowings under the Siena Credit Facility.

On May 1, 2020 (the “Loan Date”), the Company was granted a loan (the “PPP Loan”) from Berkshire Bank in the aggregate amount of \$2.2 million, pursuant to the PPP administered by the SBA and established under Division A, Title I of the CARES Act, which was enacted March 27, 2020.

The PPP Loan, which is evidenced by a Note dated the Loan Date issued by the Company (the “Note”), matures on May 1, 2022 and bears interest at a fixed rate of 1.0% per annum, accruing from the Loan Date and payable monthly. No payments are due on the PPP Loan for six months from the date of first disbursement, but interest will continue to accrue during the deferment period. The Note is unsecured and guaranteed by the SBA. The Note may be prepaid by the Company at any time prior to maturity with no prepayment penalties. The Note provides for customary defaults, including failure to make payment when due or to fulfill the Company’s obligations under the Note or related documents, reorganizations, mergers, consolidations or other changes to the Company’s business structure, and certain defaults on other indebtedness, bankruptcy events, adverse changes in financial condition or civil or criminal actions. The PPP Loan may be accelerated upon the occurrence of a default.

Under the terms of the PPP, the PPP Loan may be forgiven to the extent that funds from the PPP Loan are used for payroll costs and costs to continue group health care benefits, as well as for interest on mortgage obligations incurred before February 15, 2020, rent under lease agreements in effect before February 15, 2020, utilities for which service began before February 15, 2020, and interest on debt obligations incurred before February 15, 2020 (collectively, “qualifying expenses”), subject to conditions and limitations provided in the CARES Act. At least 75% of such forgiven amounts must be used for eligible payroll costs. The Company intends to maximize the use of PPP Loan proceeds for qualifying expenses and intends to apply for forgiveness of the PPP Loan in accordance with the terms of the CARES Act. Whether forgiveness will be granted and in what amount is subject to an application to, and approval by, the SBA and may also be subject to further requirements in any regulations and guidelines the SBA may adopt.

Shareholder Dividend Payments

In 2012, our Board of Directors initiated a quarterly cash dividend program which was subject to the Board’s approval each quarter. Our Board of Directors declared an increase to the quarterly cash dividend from \$0.06 to \$0.07 per share in May 2013, from \$0.07 to \$0.08 per share in May 2014, and from \$0.08 to \$0.09 per share in May 2017. Dividends declared and paid on our common stock totaled \$0.7 million or \$0.09 per in the three months ended 2019. On January 23, 2020, our Board of Directors announced the cessation of the quarterly cash dividend on the Company’s common stock to accelerate the investment in sales and marketing, continued product development and infrastructure of the BOHA! ecosystem. The final dividend payment was made in December 2019.

Stock Repurchase Program

Prior to its expiration on December 31, 2019, we maintained a stock repurchase program (the “2018 Stock Repurchase Program”) whereby we were authorized to repurchase up to \$5 million of our outstanding shares of common stock from time to time in the open market at prevailing market prices based on market conditions, share price and other factors. We use the cost method to account for treasury stock purchases, under which the price paid for the stock is charged to the treasury stock account. Repurchases of our common stock are accounted for as of the settlement date. During the three months ended March 31, 2020 and 2019, we did not repurchase any shares of our common stock. As of March 31, 2020, we did not have an authorized stock repurchase program.

Resource Sufficiency

Given the unprecedented uncertainty related to the impact of the COVID-19 pandemic on the food service and casino industries, the Company is closely monitoring its cash generation, usage and preservation including the management of working capital to generate cash. The Company does not currently anticipate requiring any additional credit facilities within the next twelve months beyond our Siena Credit Facility and the PPP Loan, which are discussed above, nor does it anticipate a material change in the terms or covenants pertaining to its current facilities. To better align costs with the current business environment, on March 24, 2020 the Company announced several cost reduction actions. Such actions included the furlough of approximately 10% of the Company’s workforce, a 10% reduction in the salaries of all salaried, non-commissioned employees, including the executive officers, a reduction in sales commissions for all commissioned employees, a 10% reduction of cash retainer fees for all non-employee directors and the elimination of discretionary spending wherever possible. Upon receipt of the PPP Loan, management was able to bring back the furloughed employees and intends to apply for forgiveness by maximizing the use of the PPP Loan proceeds for qualifying expenses.

We believe that our cash and cash equivalents on hand, our expected cash flows generated from operating activities, borrowings available under our Siena Credit Facility and PPP Loan, and savings from the cost reduction actions discussed above will provide sufficient resources to meet our working capital needs, finance our capital expenditures and meet our liquidity requirements through at least the next twelve months.

Contractual Obligations / Off-Balance Sheet Arrangements

The disclosure of payments we have committed to make under our contractual obligations is set forth under Part II, Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations—Contractual Obligations” of our Annual Report on Form 10-K for the year ended December 31, 2019.

On February 28, 2020, we entered into an amendment to extend the lease on our facility in Ithaca, New York. The lease, which was last amended on January 14, 2016, was scheduled to expire on May 31, 2021. The lease amendment provides for an extension of the lease for four additional years from June 1, 2021 to May 31, 2025. Other than the extension of the Ithaca facility lease, there have been no material changes in our contractual obligations since December 31, 2019.

Item 3. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The disclosure of our exposure to market risk is set forth under Part II, Item 7A, “Quantitative and Qualitative Disclosures about Market Risk”, of our Annual Report on Form 10-K for the year ended December 31, 2019. There has been no material change in our exposure to market risk during the three months ended March 31, 2020.

Item 4. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management, with the participation of our Chief Executive Officer (“CEO”) and Chief Financial Officer (“CFO”), evaluated the effectiveness of our disclosure controls and procedures, as defined in Rule 13a-15(e) under the Exchange Act as of March 31, 2020. In the Amendment to our Annual Report on Form 10-K for the year ended December 31, 2018, filed with the SEC on November 21, 2019, we disclosed that management, including our CEO and CFO, concluded that our disclosure controls and procedures were not effective as of December 31, 2018, due to material weaknesses in our internal control over financial reporting as described below. As of March 31, 2020, these material weaknesses were not fully remediated and our disclosure controls and procedures were not effective as of March 31, 2020. Management is undertaking remediation efforts, which are described below.

Notwithstanding these material weaknesses, our management, including our CEO and CFO, has concluded that our consolidated financial statements included in our Annual Report on Form 10-K for the year ended December 31, 2019 and the condensed consolidated financial statements included in this Report for the three months ended March 31, 2020 are fairly stated in all material respects in accordance with GAAP for each of the periods presented, and that they can still be relied upon.

Material Weaknesses in Internal Control Over Financial Reporting

We identified the following control deficiencies that constituted material weaknesses in our internal control over financial reporting as of March 31, 2020 and December 31, 2019 and 2018.

- We did not design and maintain effective controls over user access within the Company’s ERP system, Oracle, to ensure appropriate segregation of duties and to adequately restrict user access to appropriate personnel. Specifically, the provisioning and user recertification controls are not designed to ensure users maintain proper segregation of duties and therefore could have inappropriate access rights (the “Access Control Weakness”).
- We did not design and maintain effective controls over the completeness and accuracy of information included in key spreadsheets supporting our accounting records (the “Spreadsheet Control Weakness”).

The control deficiencies constituted material weaknesses but did not result in a material misstatement of our annual or interim consolidated financial statements. However, if these material weaknesses are not remediated, a material misstatement of account balances or disclosures may not be prevented, and may go undetected, which could result in a material misstatement of future annual or interim consolidated financial statements.

Remediation Plan

Beginning December 31, 2019, we commenced developing and implementing a plan to enhance the design and operating effectiveness of our internal control over financial reporting, which includes taking the following steps to remediate the identified control deficiencies and material weaknesses:

- To address the Access Control Weakness, we are utilizing the services of an Oracle consulting firm to assist us in analyzing and reviewing Oracle access for all users. During the first quarter of 2020, we completed the analysis and have developed an action plan to modify the designated Oracle responsibilities for each employee with respect to whom a conflict was identified to remove any Oracle transactional responsibilities that we believe are conflicting and, in some instances, to reassign those responsibilities to a different employee to ensure proper segregation of duties. As of March 31, 2020 we have completed the design and are in the process of the testing of the new Oracle responsibilities created. In addition, we plan to enhance and implement provisioning and user certification controls to ensure we maintain the appropriate segregation of duties within Oracle following the analysis.
- To address the Spreadsheet Control Weakness, for each key spreadsheet using Oracle data, we are evaluating and determining (1) if a standard Oracle report exists containing the same information as the spreadsheet, and if so, we would utilize the standard Oracle report (without modification) instead of the spreadsheet to support our accounting records and (2) if a standard Oracle report cannot be used, we will implement a new key control whereby an employee performs a formal validation that the information from Oracle is completely and accurately transferred (automatically or manually) to a spreadsheet by verifying totals and other information on a test basis. For all other key spreadsheets, we plan to design and implement a new key control to validate completeness and accuracy of information supporting our accounting records. During the first quarter of 2020, we began the process of evaluating each key spreadsheet based on the above criteria, and for several key spreadsheets, we implemented a new key control to validate the completeness and accuracy of the information contained within and supporting each such spreadsheet.

We believe these steps will address the material weaknesses described above.

Changes in Internal Control Over Financial Reporting

Other than the changes intended to remediate the material weakness noted above, no change in our internal control over financial reporting (as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act) occurred during the fiscal quarter ended March 31, 2020 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. LEGAL PROCEEDINGS

The Company may, in the ordinary course of business, become a party to litigation involving collection matters, contract claims and other legal proceedings relating to the conduct of its business. As of March 31, 2020, we are unaware of any material pending legal proceedings.

Item 1A. RISK FACTORS

In light of recent developments related to the COVID-19 pandemic, the Company is supplementing the risk factors disclosed in Part I, Item 1A of our Annual Report on Form 10-K for the fiscal year ended December 31, 2019 to include the following risk factors.

The COVID-19 pandemic has had, and is likely to continue to have, an adverse impact on our business, operations, financial condition, results of operations and capital resources, as well as on the operations and financial performance of many of our suppliers and customers. We are unable to predict the ultimate extent to which the pandemic and related effects will adversely impact our business, operations, financial condition, results of operations, capital resources and the achievement of our strategic objectives.

As a result of the COVID-19 pandemic and the numerous disease control measures being taken to limit the spread of COVID-19, we have experienced, and can be expected to continue to experience, disruptions to our business, our operations, the delivery of our products and customer demand for our products, including the following:

- supply chain disruptions, including delayed product shipments from two contract manufacturers located in China and Thailand that conduct approximately 80% and 19%, respectively, of our printer and terminal manufacturing, which, if sustained, could lead to insufficient inventory levels and harm our ability to deliver products to our customers on time or at all;
- continuing shutdowns of operations of our customers in the casino industry and restrictions on the operations of our customers in the food service industry, which have resulted in, and are likely to continue to result in, reduced demand for our products in the two primary markets that we serve;
- an inability of our customers to make payments in a timely fashion or at all, which may continue even after operating restrictions are lifted in the event that the downturn in economic conditions persists;
- devotion of significant time, management attention and resources to monitoring the COVID-19 pandemic and its impacts, and anticipated impacts, on our business, and seeking to mitigate the effects of the pandemic on our business and workforce, which diverts management's attention and resources away from strategic initiatives, new business opportunities, the transition of our business toward the food service and casino and gaming markets, and the overall profitability of our business;
- necessary modifications to our business practices and operations, including suspension of employee travel, cancellation of physical participation in meetings, events and conferences and social distancing measures, including work-from-home policies, and such further actions as may be required by government authorities or that we determine are in the best interests of our employees, customers and suppliers, which may adversely impact efficiency and productivity and may increase operational risks, including cybersecurity risks, and have affected the way that we conduct our product development, marketing, customer support and other activities;
- a furlough of workers and an across-the-board 10% salary reduction, as well as other cost-cutting measures we have taken to help mitigate the impact of the COVID-19 crisis on our business, which may, along with any additional such measures that may be taken in the future, impair our ability to operate and have a negative effect on employee loyalty and our reputation and, if furloughed employees do not return following the crisis, or if employees seek higher-paying jobs, may limit our ability to restart operations following the crisis and to grow our food service technology business as planned;
- a possible future reduction in the value of goodwill or other intangible assets causing the carrying value of such assets to exceed their fair value, which could require us to recognize asset impairment;
- difficulty predicting our manufacturing requirements accurately due to volatile economic conditions and uncertainty as to when our customers may resume operations, which could result, in the case of an underestimate, in inadequate manufacturing capacity or inventory, interruptions in production and delayed deliveries to customers (with resulting losses in orders or customers lowering our net sales), or in the case of an overestimate, in an excess inventory of component parts or manufactured products;

- increases in prices and/or decreases in availability of component parts and raw materials needed to produce our products;
- foreign exchange rate fluctuations due to volatile global economic conditions, which could negatively affect earnings and the value of our assets held outside the United States, and if we increase prices to absorb a portion of the currency impact, could cause demand to decrease;
- volatility of, and decreases in, trading prices of our common stock; and
- the possibility that we may need to raise additional capital through an equity or debt financing to support operations but are unable to do so due to, among other things, global economic conditions, conditions in the global financing markets, trading prices of our common stock and the outlook for the industries that we serve, all of which could be negatively impacted by the COVID-19 pandemic, such that there can be no assurance that such financing would be available to us.

The COVID-19 pandemic continues to evolve rapidly, and additional material impacts and disruptions are likely to occur. The factors described above, which may worsen, have had and, along with other factors that we cannot predict, can be expected to continue to have, a material adverse impact on our business, operations, financial condition, results of operations and capital resources. The ultimate impact of the COVID-19 pandemic on the Company is highly uncertain and subject to change and will depend on future developments, which cannot be accurately predicted, including the duration of the pandemic, additional or modified government actions, new information that may emerge concerning the severity and impact of the COVID-19 and the actions taken to contain COVID-19 or address its impact in the short and long-term, among others. We do not yet know and cannot predict the full extent of potential impacts on our business, operations, financial condition, results of operations and capital resources.

In addition, any of the risks and uncertainties set forth in Part I, Item 1A of our Annual Report on Form 10-K for the year ended December 31, 2019 can be expected to be further heightened by the COVID-19 pandemic and have a material adverse effect on the Company's business, prospects, financial condition, results of operations and capital resources and the achievement of our strategic objectives.

The agreement governing our credit facility contains restrictions and limitations that could significantly affect our ability to operate our business, as well as significantly affect our liquidity.

The loan and security agreement (the "Loan Agreement") governing the Siena Credit Facility contains a number of significant covenants that could adversely affect our ability to operate our business, our liquidity, and our results of operations. These covenants restrict, among other things, our ability, and the ability of any future domestic subsidiary, to:

- merge, consolidate, form subsidiaries or dispose of assets;
- acquire assets outside the ordinary course of business;
- enter into other transactions outside the ordinary course of business;
- sell, transfer, return or dispose of collateral;
- make loans to or investments in, or enter into transactions with, affiliates;
- incur or guarantee indebtedness, incur liens;
- redeem equity interests while borrowings are outstanding under the credit facility;
- change our capital structure; or
- dissolve, divide, change our line of business or cease or suffer a disruption to all or a material portion of our business.

Additionally, the Loan Agreement requires us to comply with a minimum EBITDA covenant, the amount of which is based on financial forecasts provided to the lender. The breach of any covenants or obligations in the Loan Agreement, if not otherwise waived or amended, could result in a default under the Loan Agreement and could trigger acceleration of our obligations thereunder and permit the lender to foreclose on the collateral securing our obligations under the Loan Agreement and exercise other rights of secured creditors.

Availability under the Siena Credit Facility is subject to a borrowing base, which is based on eligible accounts receivable and inventory. To the extent that our eligible accounts receivable and inventory decline in value, our borrowing base will decrease, and the availability under the Siena Credit Facility currently is and may continue to be less than its stated amount and may decrease. In addition, if at any time the amount of outstanding borrowings and letters of credit under that facility exceeds the borrowing base, we are required to prepay borrowings and/or cash collateralize letters of credit sufficient to eliminate the excess.

Our ability to comply with the covenants under the Loan Agreement or to maintain our borrowing base may be affected by events beyond our control, including deteriorating economic conditions and consequences of the COVID-19 crisis. For example, reductions in the value of accounts receivable and inventory have occurred and are likely to continue to occur due to decreases in sales and production that have occurred as a result of the COVID-19 pandemic. Further, certain slow-moving inventory and accounts receivable that remain unpaid for a specified period of time are excluded from the borrowing base calculation. Thus, a decline in economic conditions and/or a decline in the financial condition of customers in the industries we serve, such as the decline that has occurred in the casino and food service industries in connection with the COVID-19 pandemic, has impacted and may continue to negatively impact the borrowing base both by decreasing the value of existing accounts and reducing the number and amount of new accounts. If we overestimate our inventory needs due to the uncertainty surrounding the COVID-19 pandemic and the duration of its impact on customer closures and economic conditions, we may have inventory that is considered slow-moving and thus excluded from the borrowing base calculation, and any reduction in production in response to decreased demand would also result in a lower inventory value and thus a lower borrowing base.

Any of these events could require us to seek waivers or amendments of covenants or alternative sources of financing or to reduce expenditures. We cannot assure you that such waivers, amendments or alternative financing could be obtained, or if obtained, would be on terms acceptable to us, or that we would be able to reduce expenditures enough to offset any decrease in the borrowing base, or that we could make such reductions without a material negative impact on our business.

Item 2. UNREGISTERED SALES OF EQUITY SECURITIES AND USE OF PROCEEDS

None.

Item 3. DEFAULTS UPON SENIOR SECURITIES

None.

Item 4. MINE SAFETY DISCLOSURES

Not applicable.

Item 5. OTHER INFORMATION

None.

Item 6. EXHIBITS

[10.1](#) Amendment No. 3 to Lease Agreement between Bomax Properties, LLC and TransAct Technologies Incorporated dated as of February 28, 2020 (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K (SEC File No. 000-21121) filed with the SEC on March 4, 2020).

[10.2](#) Loan and Security Agreement, dated as of March 13, 2020, between Siena Lending Group LLC, as lender, TransAct Technologies Incorporated, as borrower, and the other loan parties from time to time party thereto.

[10.3](#) Note, dated May 1, 2020, by TransAct Technologies Incorporated in favor of Berkshire Bank (incorporated by reference to Exhibit 10.1 of the Company's Current Report on Form 8-K (SEC File No. 000-21121) filed with the SEC on May 5, 2020).

[Exhibit 31.1](#) Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

[Exhibit 31.2](#) Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes-Oxley Act of 2002.

[Exhibit 32.1](#) Certification pursuant to 18 U.S.C. Section 1350 as adopted pursuant to section 906 of the Sarbanes-Oxley Act of 2002.

101.INS XBRL Instance Document.

101.SCH XBRL Taxonomy Extension Schema Document.

101.CAL XBRL Taxonomy Extension Calculation Linkbase Document.

101.DEF XBRL Taxonomy Extension Definition Linkbase Document.

101.LAB XBRL Taxonomy Extension Label Linkbase Document.

101.PRE XBRL Taxonomy Extension Presentation Linkbase Document.

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 thereunto duly authorized.

TRANSACT TECHNOLOGIES INCORPORATED

(Registrant)

Dated: May 22, 2020

By: /s/ Steven A. DeMartino

Steven A. DeMartino
President, Chief Financial Officer, Treasurer and Secretary
(Principal Financial Officer)

Dated: May 22, 2020

By: /s/ David B. Peters

David B. Peters
Vice President and Chief Accounting Officer
(Principal Accounting Officer)

LOAN AND SECURITY AGREEMENT

Dated as of March 13, 2020

between

SIENA LENDING GROUP LLC,

as Lender,

TRANSACT TECHNOLOGIES INCORPORATED

as Borrower

and

THE OTHER LOAN PARTIES

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This Loan and Security Agreement (as it may be amended, restated or otherwise modified from time to time, this “**Agreement**”) is entered into as of March 13, 2020 among (1) Siena Lending Group LLC, together with its successors and assigns (“**Lender**”), (2) TransAct Technologies Incorporated, a Delaware corporation (“**TransAct Technologies**”; and together with any other Person who from time to time becomes a Borrower hereunder, collectively, the “**Borrowers**” and each individually, a “**Borrower**”), (3) each of the Affiliates of the Borrowers signatory to this Agreement from time to time as guarantors (each a “**Guarantor**” and collectively, the “**Guarantors**”) and (3) the other Loan Parties (as defined herein) set forth on the signature pages to this Agreement. The Schedules and Exhibits to this Agreement are an integral part of this Agreement and are incorporated herein by reference. Terms used, but not defined elsewhere, in this Agreement are defined in Schedule B.

1. LOANS AND LETTERS OF CREDIT.

1.1 Amount of Loans / Letters of Credit.

(a) **Revolving Loans and Letters of Credit.** Subject to the terms and conditions contained in this Agreement, including Sections 1.3 and 1.6, Lender shall, from time to time prior to the Maturity Date, at Borrowing Agent’s request, (i) make revolving loans to Borrowers (“**Revolving Loans**”), and (ii) make, or cause or permit a Participant (as defined in Section 10.10) to make, letters of credit (“**Letters of Credit**”) available to Borrowers; **provided**, that after giving effect to each such Revolving Loan and each such Letter of Credit, (A) the outstanding balance of all Revolving Loans and the Letter of Credit Balance will not exceed the lesser of (x) the Maximum Revolving Facility Amount, **minus** Reserves and (y) the Borrowing Base, and (B) none of the other Loan Limits for Revolving Loans will be exceeded. All Revolving Loans shall be made in and repayable in Dollars.

(b) **[Reserved]**.

1.2 Reserves re Revolving Loans / Letters of Credit. Lender may, with or without notice to Borrowing Agent, from time to time establish and revise reserves against the Borrowing Base and/or the Maximum Revolving Facility Amount in such amounts and of such types as Lender deems appropriate in its Permitted Discretion (“**Reserves**”). Such Reserves shall be available for Borrowing Agent to view in Passport 6.0 simultaneously with the imposition thereof; **provided**, that Lender shall endeavor to provide email notice advising Borrowing Agent of such Reserves prior to or simultaneously with the imposition of such Reserves; **provided, further** that Lender shall have no liability for failing to provide such email notice. Without limiting the foregoing, references to Reserves shall include the Dilution Reserve. In no event shall the establishment of a Reserve in respect of a particular actual or contingent liability obligate Lender to make advances to pay such liability or otherwise obligate Lender with respect thereto.

1.3 Protective Advances. Any contrary provision of this Agreement or any other Loan Document notwithstanding, Lender is hereby authorized by Borrowers at any time, regardless of (a) the existence of a Default or an Event of Default, (b) whether any of the other applicable conditions precedent set forth in Section 1.6 hereof have not been satisfied or the commitment of Lender to make Loans hereunder has been terminated for any reason, or (c) any other contrary provision of this Agreement, to make (in its Permitted Discretion prior to the occurrence and continuance of an Event of Default) Revolving Loans to, or for the benefit of, Borrowers that Lender, in its sole discretion, deems necessary or desirable (i) to preserve or protect the Collateral, or any portion thereof, (ii) to enhance the

likelihood of, or maximize the amount of, repayment of the Loans and other Obligations, or (iii) to pay any other amount chargeable to Borrowers pursuant to the terms of this Agreement (the "**Protective Advances**"). Any contrary provision of this Agreement or any other Loan Document notwithstanding, Lender may direct the proceeds of any Protective Advance to Borrowers or to such other Person as Lender determines in its sole discretion. All Protective Advances shall be payable immediately upon demand.

1.4 Notice of Borrowing; Manner of Revolving Loan Borrowing. Borrowing Agent shall request each Revolving Loan by an Authorized Officer submitting such request via Passport 6.0 (or, if requested by Lender, by delivering, in writing or via an Approved Electronic Communication, a Notice of Borrowing substantially in the form of Exhibit A hereto) (each such request a "**Notice of Borrowing**"). Subject to the terms and conditions of this Agreement, including Sections 1.1 and 1.6, Lender shall, except as provided in Section 1.3, deliver the amount of the Revolving Loan requested in the Notice of Borrowing for credit to any account of Borrowers at a bank in the United States of America as Borrowing Agent may specify (**provided** that such account must be one identified on Section 39 of the Information Certificate(s) and approved by Lender as an account to be used for funding of loan proceeds) by wire transfer of immediately available funds (a) on the same day if the Notice of Borrowing is received by Lender on or before 11:00 a.m. Eastern Time on a Business Day, or (b) on the immediately following Business Day if the Notice of Borrowing is received by Lender after 11:00 a.m. Eastern Time on a Business Day, or is received by Lender on any day that is not a Business Day. Lender shall charge to the Revolving Loan Lender's usual and customary fees for the wire transfer of each Loan.

1.5 Other Provisions Applicable to Letters of Credit. Lender shall, on the terms and conditions set forth in this Agreement (including the terms and conditions set forth in Section 1.1 and Section 1.6), make Letters of Credit available to Borrowers either by issuing them, or by causing other financial institutions to issue them supported by Lender's guaranty or indemnification; **provided**, that after giving effect to each Letter of Credit, the Letter of Credit Balance will not exceed the Letter of Credit Limit. Notwithstanding anything in this Agreement, the parties agree that in connection with Lender's option to make Letters of Credit available to Borrowers by causing other financial institutions to issue Letters of Credit, Lender may cause or permit any Participant under this Agreement to cause other financial institutions to issue such Letters of Credit and thereafter (a) all such Letters of Credit shall be treated for all purposes under this Agreement as if such Letters of Credit were requested by Borrowing Agent and made available by Lender, (b) such Participant's support of such Letters of Credit in the form of a guaranty or indemnification shall be treated as if such support had been made by Lender, (c) Borrowers hereby unconditionally and irrevocably, jointly and severally agree to pay to Lender the amount of each payment or disbursement made by such Participant or the applicable issuer under any such Letter of Credit honoring any demand for payment thereunder upon demand in accordance with the reimbursement provisions of this Section 1.5 and agrees that such reimbursement obligations of Borrowers constitute Obligations under this Agreement, and (d) any and all amounts paid by such Participant or the applicable issuer in respect of any such Letter of Credit will, at the election of Lender, be treated for all purposes as a Revolving Loan, and be payable, in the same manner as a Revolving Loan. Borrowers agree to execute all documentation reasonably required by Lender and/or the issuer of any Letter of Credit in connection with any such Letter of Credit. Borrowers hereby unconditionally and irrevocably, jointly and severally agree to reimburse Lender and/or the applicable issuer for each payment or disbursement made by Lender and/or the applicable issuer under any Letter of Credit honoring any demand for payment made thereunder, in each case on the date that such payment or disbursement is made. Borrowers' reimbursement obligations hereunder shall be irrevocable and unconditional under all circumstances, including (w) any lack of validity or enforceability of any Letter of Credit, this Agreement or any other Loan Document, (x) the existence of any claim, set-off, defense or other right which any Loan Party may have at any time against a beneficiary named in a Letter of Credit,

any transferee of any Letter of Credit (or any Person for whom any such transferee may be acting), Lender, any Participant, the applicable issuer under any Letter of Credit, or any other Person, whether in connection with any Letter of Credit, this Agreement, any other Loan Document, the transactions contemplated herein or any unrelated transactions (including any underlying transaction between any Loan Party and the beneficiary named in any Letter of Credit), (y) any lack of validity, sufficiency or genuineness of any document which Lender or the applicable issuer has determined complies on its face with the terms of the applicable Letter of Credit, even if such document should later prove to have been forged, fraudulent, invalid or insufficient in any respect or any statement therein shall have been untrue or inaccurate in any respect, or (z) the surrender or impairment of any security for the performance or observance of any of the terms hereof. Any and all amounts paid by Lender and any Participant in respect of a Letter of Credit will, at the election of Lender, be treated for all purposes as a Revolving Loan, and bear interest, and be payable, in the same manner as a Revolving Loan.

1.6 Conditions of Making the Loans and Issuing Letters of Credit. Lender's obligation to make any Loan or issue or cause any Letter of Credit to be issued under this Agreement is subject to the following conditions precedent (as well as any other conditions set forth in this Agreement or any other Loan Document), all of which must be satisfied in a manner acceptable to Lender (and as applicable, pursuant to documentation which in each case is in form and substance acceptable to Lender) as of each day that such Loan is made or such Letter of Credit is issued, as applicable:

(a) **Loans and Letters of Credit Made and/or Issued on the Closing Date:** With respect to Loans made, and/or Letters of Credit issued, on the Closing Date, (i) each applicable Loan Party shall have duly executed and/or delivered, or, as applicable, shall have caused such other applicable Persons to have duly executed and or delivered, to Lender such agreements, instruments, documents and/or certificates listed on the closing checklist attached hereto as Exhibit B; (ii) Lender shall have completed its business and legal due diligence pertaining to the Loan Parties, their respective businesses and assets, with results thereof satisfactory to Lender in its sole discretion; (iii) after giving effect to such Loans and Letters of Credit, as well as to the payment of all trade payables older than sixty (60) days past due and the consummation of all transactions contemplated hereby to occur on the Closing Date, closing costs and any book overdraft, Excess Availability shall be no less than \$6,000,000; and (iv) Borrowers shall have paid to Lender all fees due on the date hereof, and shall have paid or reimbursed Lender for all of Lender's costs, charges and expenses incurred through the Closing Date (and in connection herewith, Borrowers hereby irrevocably authorize Lender to charge such fees, costs, charges and expenses as Revolving Loans); and

(b) **All Loans and/or Letters of Credit:** With respect to Loans made and/or Letters of Credit issued, on the Closing Date and/or at any time thereafter, in addition to the conditions specified in clause (a) above as applicable, (i) Borrowers shall have provided to Lender such information as Lender may require in order to determine the Borrowing Base, as of such borrowing or issue date, after giving effect to such Loans and/or Letters of Credit, as applicable; (ii) each applicable Loan Party shall have duly executed and/or delivered, or, as applicable, shall have caused such other applicable Persons to have duly executed and or delivered, to Lender such further agreements, instruments, documents, proxies and certificates as Lender may require in connection therewith; (iii) each of the representations and warranties set forth in this Agreement, the Information Certificate(s) and in the other Loan Documents shall be true and correct in all respects as of the date such Loan is made and/or such Letter of Credit is issued (or to the extent any representations or warranties are expressly made solely as of an earlier date, such representations and warranties shall be true and correct as of such earlier date), both before and after giving effect thereto; and (iv) no Default or Event of Default shall be in existence, both before and after giving effect thereto.

1.7 Repayments.

(a) **Revolving Loans/Letters of Credit.** If at any time for any reason whatsoever (including without limitation as a result of currency fluctuations) (i) the sum of the outstanding balance of all Revolving Loans and the Letter of Credit Balance exceeds the lesser of (x) the Maximum Revolving Facility Amount and (y) the Borrowing Base, or (ii) any of the Loan Limits for Revolving Loans or Letters of Credit are exceeded, then in each case, Borrowers will immediately and jointly and severally pay to Lender such amounts (or, with respect to the Letter of Credit Balance, provide cash collateral to Lender in the manner set forth in clause (c) below) as shall cause Borrowers to eliminate such excess.

(b) **[Reserved].**

(c) **Maturity Date Payments / Cash Collateral.** All remaining outstanding monetary Obligations (including, all accrued and unpaid fees described in the Fee Letter) shall be payable in full on the Maturity Date. Without limiting the generality of the foregoing, if, on the Maturity Date, there are any outstanding Letters of Credit, then on such date Borrowers shall provide to Lender cash collateral in an amount equal to 105% of the Letter of Credit Balance to secure all of the Obligations (including estimated attorneys' fees and other expenses) relating to said Letters of Credit, pursuant to a cash pledge agreement in form and substance reasonably satisfactory to Lender.

(d) **Currency Due.** If, notwithstanding the terms of this Agreement or any other Loan Document, Lender receives any payment from or on behalf of Borrowers or any other Person in a currency other than the Currency Due, Lender may convert the payment (including the monetary proceeds of realization upon any Collateral and any funds then held in a cash collateral account) into the Currency Due at exchange rate selected by Lender in the manner contemplated by Section 6.3(b) and Borrowers shall jointly and severally reimburse Lender on demand for all reasonable costs they incur with respect thereto. To the extent permitted by law, the obligation shall be satisfied only to the extent of the amount actually received by Lender upon such conversion.

1.8 Prepayments / Voluntary Termination / Application of Prepayments.

(a) **Certain Mandatory Prepayment Events.** Borrowers shall be required to prepay the unpaid principal balance of the Revolving Loans on the date of each and every Prepayment Event (and on any date thereafter on which proceeds pertaining thereto are received by any Loan Party), in each case without any demand or notice from Lender or any other Person, all of which is hereby expressly waived by Borrowers, in the amount of 100% of the proceeds (net of documented reasonable out-of-pocket costs and expenses incurred in connection with the collection of such proceeds, in each case payable to Persons that are not Affiliates of any Loan Party) received by any Loan Party with respect to such Prepayment Event; **provided**, that with respect to a Prepayment Event of the type described in clause (b) of the definition of Prepayment Event, so long as no Default or Event of Default exists, to the extent that the proceeds received by such Person as a result of such Prepayment Event do not exceed \$200,000 in the aggregate during any Fiscal Year and are actually applied within 180 days of such receipt to (x) replace the property or assets subject to such Prepayment Event with property and/or assets performing the same or similar functions or (y) repair, replace or reconstruct property and or assets damaged by such Prepayment Event, such proceeds shall not be required to prepay the Loans pursuant to this Section 1.8(a) (pending such reinvestment such proceeds shall be delivered to Lender to hold in an escrow account). Each such prepayment shall be subject to the Early Payment/Termination Premium in the amount specified in the Fee Letter.

(b) [Reserved].

(c) [Reserved].

(d) [Reserved].

(e) **Voluntary Termination of Loan Facilities.** Borrowers may, on at least sixty (60)

days prior and irrevocable written notice received by Lender, permanently terminate the Loan facilities by repaying all of the outstanding Obligations, including all principal, interest and fees with respect to the Revolving Loans, and an Early Payment/Termination Premium in the amount specified in the paragraph under the heading “Early Termination Fee” in the Fee Letter. If, on the date of a voluntary termination pursuant to this Section 1.8(e), there are any outstanding Letters of Credit, then on such date, and as a condition precedent to such termination, Borrowers shall provide to Lender cash collateral in an amount equal to 105% of the Letter of Credit Balance to secure all of the Obligations (including estimated attorneys’ fees and other expenses) relating to said Letters of Credit, pursuant to a cash pledge agreement in form and substance reasonably satisfactory to Lender. From and after such date of termination, Lender shall have no obligation whatsoever to extend any additional Loans or Letters of Credit and all of its lending commitments hereunder shall be terminated.

1.9 Obligations Unconditional.

(a) The payment and performance of all Obligations shall constitute the absolute and unconditional obligations of each Loan Party and shall be independent of any defense or rights of set-off, recoupment or counterclaim which any Loan Party or any other Person might otherwise have against Lender or any other Person. All payments required by this Agreement and/or the other Loan Documents shall be made in Dollars (unless payment in a different currency is expressly provided otherwise in the applicable Loan Document) and paid free of any deductions or withholdings for any taxes or other amounts and without abatement, diminution or set-off. If any Loan Party is required by applicable law to make such a deduction or withholding from a payment under this Agreement or under any other Loan Document, such Loan Party shall pay to Lender such additional amount as is necessary to ensure that, after the making of such deduction or withholding, Lender receives (free from any liability in respect of any such deduction or withholding) a net sum equal to the sum which it would have received and so retained had no such deduction or withholding been made or required to be made. Each Loan Party shall (i) pay the full amount of any deduction or withholding, which it is required to make by law, to the relevant authority within the payment period set by applicable law, and (ii) promptly after any such payment, deliver to Lender an original (or certified copy) official receipt issued by the relevant authority in respect of the amount withheld or deducted or, if the relevant authority does not issue such official receipts, such other evidence of payment of the amount withheld or deducted as is reasonably acceptable to Lender.

(b) If, at any time and from time to time after the Closing Date (or at any time before or after the Closing Date with respect to (x) the Dodd-Frank Wall Street Reform and Consumer Protection Act and all requests, rules, regulations, guidelines or directives thereunder or issued in connection therewith, or (y) all requests, rules, guidelines or directives promulgated by the Bank for International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States regulatory authorities, in each case for purposes of this clause (y) pursuant to Basel III, regardless of the date enacted, adopted or issued), (i) any change in any existing law, regulation, treaty or directive or in the interpretation or application thereof, (ii) any new law, regulation, treaty or directive enacted or application thereof, or (iii) compliance by Lender with any request or directive (whether or not having the force of law) from any Governmental Authority, central bank or comparable agency (A)

subjects Lender to any tax, levy, impost, deduction, assessment, charge or withholding of any kind whatsoever with respect to any Loan Document, or changes the basis of taxation of payments to Lender of any amount payable thereunder (except for net income taxes, or franchise taxes imposed in lieu of net income taxes, imposed generally by federal, state, local or other taxing authorities with respect to interest or fees payable hereunder or under any other Loan Document or changes in the rate of tax on the overall net income of Lender or its members), or (B) imposes on Lender any other condition or increased cost in connection with the transactions contemplated thereby or participations therein, and the result of any of the foregoing is to increase the cost to Lender of making or continuing any Loan or Letter of Credit or to reduce any amount receivable hereunder or under any other Loan Documents, then, in any such case, Borrowers shall promptly and jointly and severally pay to Lender, when notified to do so by Lender, any additional amounts necessary to compensate Lender, on an after-tax basis, for such additional cost or reduced amount as determined by Lender. Each such notice of additional amounts payable pursuant to this Section 1.9(b) submitted by Lender to Borrowing Agent shall, absent manifest error, be final, conclusive and binding for all purposes.

(c) This Section 1.9 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Obligations.

1.10 Reversal of Payments. To the extent that any payment or payments made to or received by Lender pursuant to this Agreement or any other Loan Document are subsequently invalidated, declared to be fraudulent or preferential, set aside, or required to be repaid to any trustee, receiver or other Person under any state, federal or other bankruptcy or other such applicable law, then, to the extent thereof, such amounts (and all Liens, rights and remedies therefore) shall be revived as Obligations (secured by all such Liens) and continue in full force and effect under this Agreement and under the other Loan Documents as if such payment or payments had not been received by Lender. This Section 1.10 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Obligations.

2. INTEREST AND FEES; LOAN ACCOUNT.

2.1 Interest. All Loans and other monetary Obligations shall bear interest at the interest rate(s) set forth in Section 3 of Schedule A, and accrued interest shall be payable (a) on the first day of each month in arrears, (b) upon a prepayment of such Loan in accordance with Section 1.8, and (c) on the Maturity Date; **provided**, that after the occurrence and during the continuation of an Event of Default, all Loans and other monetary Obligations shall bear interest at a rate per annum equal to four (4) percentage points in excess of the rate otherwise applicable thereto, and all such interest shall be payable on demand. Changes in the interest rate shall be effective as of the date of any change in the Base Rate.

2.2 Fees. Borrowers shall jointly and severally pay Lender the fees set forth in the Fee Letter on the dates set forth therein, which fees are in addition to all fees and other sums payable by Borrowers or any other Person to Lender under this Agreement or under any other Loan Document, and, in each case are not refundable once paid.

2.3 Computation of Interest and Fees. All interest and fees shall be calculated daily on the outstanding monetary Obligations based on the actual number of days elapsed in a year of 360 days.

2.4 Loan Account; Monthly Accountings. Lender shall maintain a loan account for Borrowers reflecting all outstanding Loans and the Letters of Credit Balance, along with interest accrued thereon and such other items reflected therein (the "**Loan Account**"), and shall provide Borrowing Agent with a monthly accounting reflecting the activity in the Loan Account, viewable by Borrowing Agent on

Passport 6.0. Absent manifest error, each accounting shall be deemed correct, accurate and binding on Borrowers and an account stated (except for reverses and reapplications of payments made and corrections of errors discovered by Lender), unless Borrowing Agent notifies Lender in writing to the contrary within thirty (30) days after such account is rendered, describing the nature of any alleged errors or omissions. However, Lender's failure to maintain the Loan Account or to provide any such accounting shall not affect the legality or binding nature of any of the Obligations. Interest, fees and other monetary Obligations due and owing under this Agreement (including fees and other amounts paid by Lender to issuers of Letters of Credit) may, in Lender's discretion, be charged to the Loan Account, and will thereafter be deemed to be Revolving Loans and will bear interest at the same rate as other Revolving Loans.

2.5 Further Obligations; Maximum Lawful Rate. With respect to all monetary Obligations for which the interest rate is not otherwise specified herein (whether such Obligations arise hereunder or under any other Loan Document, or otherwise), such Obligations shall bear interest at the rate(s) in effect from time to time with respect to the applicable Loan and shall be payable upon demand by Lender. In no event shall the interest charged with respect to any Loan or any other Obligation exceed the maximum amount permitted under applicable law. Notwithstanding anything to the contrary herein or elsewhere, if at any time the rate of interest payable or other amounts hereunder or under any other Loan Document (the "**Stated Rate**") would exceed the highest rate of interest or other amount permitted under any applicable law to be charged (the "**Maximum Lawful Rate**"), then for so long as the Maximum Lawful Rate would be so exceeded, the rate of interest and other amounts payable shall be equal to the Maximum Lawful Rate; **provided**, that if at any time thereafter the Stated Rate is less than the Maximum Lawful Rate, Borrowers shall, to the extent permitted by applicable law, continue to pay interest and such other amounts at the Maximum Lawful Rate until such time as the total interest and other such amounts received is equal to the total interest and other such amounts which would have been received had the Stated Rate been (but for the operation of this provision) the interest rate payable or such other amounts payable. Thereafter, the interest rate and such other amounts payable shall be the Stated Rate unless and until the Stated Rate again would exceed the Maximum Lawful Rate, in which event this provision shall again apply. In no event shall the total interest or other such amounts received by Lender exceed the amount which it could lawfully have received had the interest and other such amounts been calculated for the full term hereof at the Maximum Lawful Rate. If, notwithstanding the prior sentence, Lender has received interest or other such amounts hereunder in excess of the Maximum Lawful Rate, such excess amount shall be applied to the reduction of the principal balance of the Loans or to other Obligations (other than interest) payable hereunder, and if no such principal or other Obligations are then outstanding, such excess or part thereof remaining shall be paid to Borrowers. In computing interest payable with reference to the Maximum Lawful Rate applicable to any Lender, such interest shall be calculated at a daily rate equal to the Maximum Lawful Rate divided by the number of days in the year in which such calculation is made.

3. SECURITY INTEREST GRANT / POSSESSORY COLLATERAL / FURTHER ASSURANCES.

3.1 Grant of Security Interest. To secure the full payment and performance of all of the Obligations, each Loan Party hereby assigns to Lender and grants to Lender a continuing security interest in all property of such Loan Party, whether tangible or intangible, real or personal, now or hereafter owned, existing, acquired or arising and wherever now or hereafter located, and whether or not eligible for lending purposes, including: (a) all Accounts (whether or not Eligible Accounts) and all Goods whose sale, lease or other disposition by such Loan Party has given rise to Accounts and have been returned to, or repossessed or stopped in transit by, such Loan Party; (b) all Chattel Paper (including Electronic Chattel Paper), Instruments, Documents, and General Intangibles (including all patents, patent

applications, trademarks, trademark applications, trade names, trade secrets, goodwill, copyrights, copyright applications, registrations, licenses, software, franchises, customer lists, tax refund claims, claims against carriers and shippers, guarantee claims, contracts rights, payment intangibles, security interests, security deposits and rights to indemnification); (c) all Inventory (whether or not Eligible Inventory); (d) all Goods (other than Inventory), including Equipment, Farm Products, Health-Care- Insurance Receivables, vehicles, and Fixtures; (e) all Investment Property, including, without limitation, all rights, privileges, authority, and powers of such Loan Party as an owner or as a holder of Pledged Equity, including, without limitation, all economic rights, all control rights, authority and powers, and all status rights of such Loan Party as a member, equity holder or shareholder, as applicable, of each Issuer; (f) all Deposit Accounts, bank accounts, deposits and cash; (g) all Letter-of-Credit Rights; (h) all Commercial Tort Claims listed in Section 40 of the Information Certificate(s); (i) all Supporting Obligations; (j) any other property of such Loan Party now or hereafter in the possession, custody or control of Lender or any agent or any parent, Affiliate or Subsidiary of Lender or any Participant with Lender in the Loans, for any purpose (whether for safekeeping, deposit, collection, custody, pledge, transmission or otherwise), and (k) all additions and accessions to, substitutions for, and replacements, products and Proceeds of the foregoing property, including proceeds of all insurance policies insuring the foregoing property, and all of such Loan Party's books and records relating to any of the foregoing and to such Loan Party's business.

3.2 Possessory Collateral. Promptly, but in any event no later than five (5) Business Days after any Loan Party's receipt of any portion of the Collateral evidenced by an agreement, Instrument or Document, including any Tangible Chattel Paper and any Investment Property consisting of certificated securities, such Loan Party shall deliver the original thereof to Lender together with an appropriate endorsement or other specific evidence of assignment thereof to Lender (in form and substance acceptable to Lender). If an endorsement or assignment of any such items shall not be made for any reason, Lender is hereby irrevocably authorized, as attorney and agent-in-fact (coupled with an interest) for each Loan Party, to endorse or assign the same on such Loan Party's behalf.

3.3 Further Assurances.

(a) Each Loan Party will, at the time that any Loan Party forms any direct or indirect Subsidiary or acquires any direct or indirect domestic Subsidiary after the Closing Date, or at any time when the Inactive Subsidiary shall cease to satisfy any of the requirements for an Inactive Subsidiary, within ten (10) days of such event (or such later date as permitted by Lender in its sole discretion) (i) cause such Subsidiary to become a Loan Party and to grant Lender a first priority Lien (subject to Permitted Liens) in and to the assets of such newly formed or acquired Subsidiary), (ii) provide, or cause the applicable Loan Party to provide, to Lender a pledge agreement and appropriate certificates and powers or financing statements, pledging all of the direct or beneficial ownership interest in such Subsidiary in form and substance reasonably satisfactory to Lender (which pledge, if reasonably requested by Lender, shall be governed by the laws of the jurisdiction of such Subsidiary), and (iii) provide to Lender all other documentation, including one or more opinions of counsel reasonably satisfactory to Lender, which, in its opinion, is appropriate with respect to the execution and delivery of the applicable documentation referred to above (including policies of title insurance, flood certification documentation or other documentation with respect to all real property owned in fee and subject to a mortgage). Any document, agreement, or instrument executed or issued pursuant to this Section 3.3 shall constitute a Loan Document.

(b) Each Loan Party will, and will cause each of the other Loan Parties to, at any time upon the reasonable request of Lender, execute or deliver to Lender any and all financing statements, fixture filings, security agreements, pledges, assignments, mortgages, deeds of trust, opinions of counsel,

and all other documents (the “**Additional Documents**”) that Lender may reasonably request in form and substance reasonably satisfactory to Lender, to create, perfect, and continue to be perfected or to better perfect Lender’s Liens in all of the assets of each of the Loan Parties (whether now owned or hereafter arising or acquired, tangible or intangible, real or personal), to create and perfect Liens in favor of Lender in any real property acquired by any other Loan Party with a fair market value in excess of \$100,000, and in order to fully consummate all of the transactions contemplated hereby and under the other Loan Documents. To the maximum extent permitted by applicable law, if any Borrower or any other Loan Party refuses or fails to execute or deliver any reasonably requested Additional Documents within a reasonable period of time following the request to do so, each Borrower and each other Loan Party hereby authorizes Lender to execute any such Additional Documents in the applicable Loan Party’s name and authorizes Lender to file such executed Additional Documents in any appropriate filing office.

(c) Each Loan Party shall, at its own cost and expense, promptly and duly take, execute, acknowledge and deliver (and/or use commercially reasonable efforts to cause such other applicable Person to take, execute, acknowledge and deliver) all such further acts, documents, agreements and instruments as Lender shall deem reasonably necessary in order to (i) carry out the intent and purposes of the Loan Documents and the transactions contemplated thereby, (ii) establish, create, preserve, protect and perfect a first priority Lien (subject only to Permitted Liens) in favor of Lender in all Collateral (wherever located) from time to time owned by the Loan Parties, (iii) cause each Loan Party to guarantee all of the Obligations, all pursuant to documentation that is in form and substance satisfactory to Lender in its Permitted Discretion and (iv) facilitate the collection of the Collateral. Without limiting the foregoing, each Loan Party shall, at its own cost and expense, promptly and duly take, execute, acknowledge and deliver (and/or use commercially reasonable efforts to cause such other applicable Person to take, execute, acknowledge and deliver) to Lender all promissory notes, security agreements, agreements with landlords, mortgagees and processors and other bailees, subordination and intercreditor agreements and other agreements, instruments and documents, in each case in form and substance reasonably acceptable to Lender, as Lender may request from time to time to perfect, protect, and maintain Lender’s security interests in the Collateral, including the required priority thereof, and to fully carry out the transactions contemplated by the Loan Documents.

3.4 UCC Financing Statements. Each Loan Party authorizes Lender to file, transmit, or communicate, as applicable, from time to time, Uniform Commercial Code financing statements, along with amendments and modifications thereto, in all filing offices selected by Lender, listing such Loan Party as the debtor and Lender as the secured party, and describing the collateral covered thereby in such manner as Lender may elect, including using descriptions such as “all personal property of debtor” or “all assets of debtor” or words of similar effect. Each Loan Party also hereby ratifies its authorization for Lender to have filed in any filing office any financing statements filed prior to the date hereof.

4. CERTAIN PROVISIONS REGARDING ACCOUNTS, INVENTORY, COLLECTIONS, APPLICATIONS OF PAYMENTS, INSPECTION RIGHTS, AND APPRAISALS.

4.1 Lock Boxes and Blocked Accounts. Each Loan Party hereby represents and warrants that all Deposit Accounts and all other depository and other accounts maintained by each Loan Party as of the Closing Date are described in Section 39 of the Information Certificate(s), which description includes for each such account the name of the Loan Party maintaining such account, the name, of the financial institution at which such account is maintained, the account number, and the purpose of such account. After the Closing Date, no Loan Party shall open any new Deposit Accounts or any other depository or other accounts without the prior written consent of Lender and without updating Section 39 of the Information Certificate(s) to reflect such Deposit Accounts or other accounts, as applicable. No Deposit Accounts or other accounts of any Loan Party shall at any time constitute a Restricted Account

other than accounts expressly indicated on Section 39 of the Information Certificate(s) as being a Restricted Account (and each Loan Party hereby represents and warrants that each such account shall at all times meet the requirements set forth in the definition of Restricted Account to qualify as a Restricted Account). Each Loan Party will, at its expense, establish (and revise from time to time as Lender may require) procedures acceptable to Lender, in Lender's Permitted Discretion, for the collection of checks, wire transfers and all other proceeds of all of such Loan Party's Accounts and other Collateral ("**Collections**"), which shall include (a) directing all Account Debtors to send all Account proceeds directly to a post office box designated by Lender either in the name of such Loan Party (but as to which Lender has exclusive access) or, at Lender's option, in the name of Lender (a "**Lock Box**"), and/or (b) depositing all Collections received by such Loan Party into one or more bank accounts maintained in the name of such Loan Party (but as to which Lender has exclusive access) or, at Lender's option, in the name of Lender (each, a "**Blocked Account**"), under an arrangement acceptable to Lender with a depository bank acceptable to Lender, pursuant to which all funds deposited into each Blocked Account are to be transferred to Lender in such manner, and with such frequency, as Lender shall specify, and/or (c) a combination of the foregoing. Each Loan Party agrees to execute, and to cause its depository banks and other account holders to execute, such Lock Box and Blocked Account control agreements and other documentation as Lender shall require from time to time in connection with the foregoing, all in form and substance acceptable to Lender, and in any event such arrangements and documents must be in place on the date hereof with respect to accounts in existence on the date hereof, or prior to any such account being opened with respect to any such account opened after the date hereof, in each case excluding Restricted Accounts. At the request of Lender, each Loan Party shall provide Lender with online read-only access to such Loan Party's Deposit Accounts and maintain such access in effect for Lender throughout the term of this Agreement and until all Obligations have been paid in full, all in a manner acceptable to Lender in its Permitted Discretion. Prior to the Closing Date, Borrowing Agent shall deliver to Lender a complete and executed Authorized Accounts form regarding Borrowers' operating account(s) into which the proceeds of Loans are to be paid in the form of Exhibit D annexed hereto.

4.2 Application of Payments. All amounts paid to or received by Lender in respect of the monetary Obligations, from whatever source (whether from any Borrower or any other Loan Party pursuant to such other Loan Party's guaranty of the Obligations, any realization upon any Collateral, or otherwise) shall, unless otherwise directed by Borrowing Agent with respect to any particular payment (unless an Event of Default shall then be continuing, in which event Lender may disregard Borrowing Agent's direction), be applied by Lender to the Obligations in such order as Lender may elect, and absent such election shall be applied as follows:

(a) FIRST, to reimburse Lender for all out-of-pocket costs and expenses, and all indemnified losses, incurred by Lender which are reimbursable to Lender in accordance with this Agreement and/or any of the other Loan Documents,

(b) SECOND, to any accrued but unpaid interest on any Protective Advances,

(c) THIRD, to the outstanding principal of any Protective Advances,

(d) FOURTH, to any accrued but unpaid fees owing to Lender under this Agreement and/or any other Loan Documents,

(e) FIFTH, to any unpaid accrued interest on the Obligations,

(f) SIXTH, to the outstanding principal of the Obligations, and, to the extent required by this Agreement, to cash collateralize the Letter of Credit Balance, and

(g) SEVENTH, to the payment of any other outstanding Obligations; and after payment in full in cash of all of the outstanding monetary Obligations, any further amounts paid to or received by Lender in respect of the Obligations (so long as no monetary Obligations are outstanding) shall be paid over to Borrowers or such other Person(s) as may be legally entitled thereto. For purposes of determining the Borrowing Base, such amounts will be credited to the Loan Account and the Collateral balances to which they relate upon Lender's receipt of an advice from Lender's Bank (set forth in Section 5 of Schedule A) that such items have been credited to Lender's account at Lender's Bank (or upon Lender's deposit thereof at Lender's Bank in the case of payments received by Lender in kind), in each case subject to final payment and collection. However, for purposes of computing interest on the Obligations, such items shall be deemed applied by Lender three (3) Business Days after Lender's receipt of advice of deposit thereof at Lender's Bank.

4.3 Notification; Verification. Lender or its designee may, from time to time, whether or not a Default or Event of Default has occurred and is continuing (except as otherwise specified below): (a) verify directly with the Account Debtors of the Loan Parties (or by any reasonable manner and through any reasonable medium Lender considers advisable in the exercise of its Permitted Discretion) the validity, amount and other matters relating to the Accounts and Chattel Paper of the Loan Parties, by means of mail, telephone or otherwise, either in the name of the applicable Loan Party or Lender or such other name as Lender may choose, (b) notify Account Debtors of the Loan Parties that Lender has a security interest in the Accounts of the Loan Parties, (c) if an Event of Default has occurred and is continuing, require any Loan Party to cause all invoices and statements which it sends to Account Debtors or other third parties to be marked, in a manner satisfactory to Lender, to reflect Lender's security interest therein and payment instructions acceptable to Lender, (d) if an Event of Default has occurred and is continuing, direct such Account Debtors to make payment thereof directly to Lender; such notification to be sent on the letterhead of such Loan Party and substantially in the form of Exhibit E annexed hereto, and (e) demand, collect or enforce payment of any Accounts and Chattel Paper (but without any duty to do so). Each Loan Party hereby authorizes Account Debtors to make payments directly to Lender and to rely on notice from Lender without further inquiry. Lender may on behalf of each Loan Party endorse all items of payment received by Lender that are payable to such Loan Party for the purposes described above.

4.4 Power of Attorney. Each Loan Party hereby grants to Lender an irrevocable power of attorney, coupled with an interest, authorizing and permitting Lender (acting through any of its officers, employees, attorneys or agents), at Lender's option (and solely with respect to any actions taken by Lender under Section 4.4(a) below, in the exercise of its Permitted Discretion), but without obligation, with or without notice to such Loan Party, and at such Loan Party's expense, to do any or all of the following, in such Loan Party's name or otherwise:

(a) (i) execute on behalf of such Loan Party any documents that Lender may deem advisable in order to perfect, protect and maintain Lender's security interests, and priority thereof, in the Collateral (including such financing statements and continuation financing statements, and amendments or other modifications thereto, as Lender shall deem necessary or appropriate); (ii) endorse such Loan Party's name on all checks and other forms of remittances received by Lender; (iii) pay any sums required on account of such Loan Party's taxes or to secure the release of any Liens therefor; (iv) pay any amounts necessary to obtain, or maintain in effect, any of the insurance described in Section 5.14; (v) receive and otherwise take control in any manner of any cash or non-cash items of payment or Proceeds of Collateral; (vi) receive, open and process all mail addressed to such Loan Party at any post office box/lockbox maintained by Lender for such Loan Party or at any other business premises of Lender with Collections to be promptly transferred to the Blocked Account and any mail unrelated to Collections to be promptly remitted to such Loan Party along with copies of all other mail addressed to such Loan Party

and received by Lender, and (vii) endorse or assign to Lender on such Loan Party's behalf any portion of Collateral evidenced by an agreement, Instrument or Document if an endorsement or assignment of any such items is not made by Borrowers pursuant to Section 3.2; and

(b) After the occurrence and during the continuance of an Event of Default and subject to the terms and conditions of Section 7 of this Agreement; (i) execute on behalf of such Loan Party any document exercising, transferring or assigning any option to purchase, sell or otherwise dispose of or lease (as lessor or lessee) any real or personal property which is part of the Collateral or in which Lender has an interest; (ii) execute on behalf of such Loan Party any invoices relating to any Accounts, any draft against any Account Debtor, any proof of claim in bankruptcy, any notice of Lien or claim, and any assignment or satisfaction of mechanic's, materialman's or other Lien; (iii) except as otherwise provided in Section 4.3 hereof, execute on behalf of such Loan Party any notice to any Account Debtor; (iv) pay, contest or settle any Lien, charge, encumbrance, security interest and adverse claim in or to any of the Collateral, or any judgment based thereon, or otherwise take any action to terminate or discharge the same; (v) grant extensions of time to pay, compromise claims relating to, and settle Accounts, Chattel Paper and General Intangibles for less than face value and execute all releases and other documents in connection therewith; (vi) settle and adjust, and give releases of, any insurance claim that relates to any of the Collateral and obtain payment therefor; (vii) instruct any third party having custody or control of any Collateral or books or records belonging to, or relating to, such Loan Party to give Lender the same rights of access and other rights with respect thereto as Lender has under this Agreement or any other Loan Document; (viii) change the address for delivery of such Loan Party's mail; (ix) vote any right or interest with respect to any Investment Property; and (x) instruct any Account Debtor to make all payments due to such Loan Party directly to Lender.

Any and all sums paid, and any and all costs, expenses, liabilities, obligations and reasonable attorneys' fees incurred, by Lender with respect to the foregoing shall be added to and become part of the Obligations, shall be payable on demand, and shall bear interest at a rate equal to the highest interest rate applicable to any of the Obligations at such time. Each Loan Party agrees that Lender's rights under the foregoing power of attorney and/or any of Lender's other rights under this Agreement or the other Loan Documents shall not be construed to indicate that Lender is in control of the business, management or properties of such Loan Party.

4.5 Disputes. Each Loan Party shall promptly notify Lender of all disputes or claims relating to its Accounts and Chattel Paper. Each Loan Party agrees that it will not, without Lender's prior written consent, compromise or settle any of its Accounts or Chattel Paper for less than the full amount thereof, grant any extension of time for payment of any of its Accounts or Chattel Paper, release (in whole or in part) any Account Debtor or other person liable for the payment of any of its Accounts or Chattel Paper or grant any credits, discounts, allowances, deductions, return authorizations or the like with respect to any of its Accounts or Chattel Paper; except (unless otherwise directed by Lender during the existence of a Default or an Event of Default) such Loan Party may take any of such actions in the ordinary course of its business consistent with past practices, **provided**, that Borrowers promptly report the same to Lender.

4.6 Inventory.

(a) **Returns.** No Loan Party will accept returns of any Inventory from any Account Debtor except in the ordinary course of its business. In the event the value of returned Inventory in any one calendar month exceeds \$50,000 (collectively for all Loan Parties), Borrowers will immediately notify Lender (which notice shall specify the value of all such returned Inventory, the reasons for such returns, and the locations and the condition of such returned Inventory).

(b) **Sale on Return, etc.** No Loan Party will, without Lender's prior written consent, at any time, sell any Inventory on a sale-or-return, guaranteed sale, consignment, or other contingent basis.

(c) **Fair Labor Standards Act.** Each Loan Party represents and warrants, and covenants that at all times, that all of the Inventory of each Loan Party has been, at all times will be, produced only in accordance with the Fair Labor Standards Act of 1938 and all rules, regulations and orders promulgated thereunder.

4.7 Access to Collateral, Books and Records. At reasonable times and, so long as no Default or Event of Default has occurred and is continuing, with reasonable notice, Lender and/or its representatives or agents shall have the right to inspect the Collateral, and the right to examine and copy each Loan Party's books and records. Each Loan Party agrees to give Lender access to any or all of such Loan Party's, and each of its Subsidiaries', premises to enable Lender to conduct such inspections and examinations. Such inspections and examinations shall be at Borrowers' expense and the charge therefor shall be \$1,200 per person per day, plus out-of-pocket expenses; *provided*, that Lender shall conduct such field inspections and examinations no more frequently than once per Fiscal Quarter and Borrowers shall not be obligated to pay more than \$10,000 per Fiscal Year for costs and expenses relating to field examinations; *provided further, however*, that the foregoing limitations on the frequency of and on Borrowers' obligation to pay for costs and expenses relating to field inspections and examinations shall not apply to costs and expenses incurred in connection with (i) the field examination conducted prior to the Closing Date, (ii) any field examination conducted in connection with a Permitted Acquisition, or (iii) any field examination commenced while an Event of Default exists. Upon the occurrence and during the continuance of an Event of Default, Lender may, at Borrowers' expense, use each Loan Party's personnel, computer and other equipment, programs, printed output and computer readable media, supplies and premises for the collection, sale or other disposition of Collateral to the extent Lender, in its sole discretion, deems appropriate. Each Loan Party hereby irrevocably authorizes all accountants and other financial professional third parties to disclose and deliver to Lender, at Borrowers' expense, all financial information, books and records, work papers, management reports and other information in their possession regarding the Loan Parties.

4.8 Appraisals. Each Loan Party will permit Lender and each of its representatives or agents to conduct appraisals and valuations of the Collateral at such times and intervals as Lender may designate. So long as no Event of Default has occurred and is continuing, Lender shall not conduct more than one (1) appraisal and valuation in any Fiscal Year, and any such appraisal and valuation shall be at Lender's expense. Lender may conduct additional appraisals and valuations during the existence of an Event of Default, and any such appraisals and valuations shall be at Borrower's expense.

5. REPRESENTATIONS, WARRANTIES AND COVENANTS.

To induce Lender to enter into this Agreement, each Loan Party represents, warrants and covenants as follows (it being understood and agreed that (a) each such representation and warranty (i) will be made as of the date hereof and be deemed remade as of each date on which any Loan is made or Letter of Credit is issued (except to the extent any such representation or warranty expressly relates only to any earlier and/or specified date, in which case such representation or warranty will be made as of such earlier and/or specified date), and (ii) shall not be affected by any knowledge of, or any investigation by, Lender, and (b) each such covenant shall continuously apply with respect to all times commencing on the date hereof and continuing until the Termination Date):

5.1 Existence and Authority. Each Loan Party is duly organized or incorporated, validly existing and in good standing (or equivalent status) under the laws of its jurisdiction of organization

(which jurisdiction is identified in Section 3 of the Information Certificate(s)) and is qualified to do business in each jurisdiction in which the operation of its business requires that it be qualified (which each such jurisdiction is identified in Section 15 of the Information Certificate(s)), except where the failure to be so qualified could not reasonably be expected to result in a Material Adverse Effect. Each Loan Party will, and will cause each of its Subsidiaries to, at all times preserve and keep in full force and effect such Person's valid existence and good standing (or equivalent status) in its jurisdiction of organization and, except as could not reasonably be expected to result in a Material Adverse Effect, good standing with respect to all other jurisdictions in which it is qualified to do business and any rights, franchises, permits, licenses, accreditations, authorizations, or other approvals material to their businesses. Each Loan Party has all requisite power and authority to own and operate its properties, to carry on its business as now conducted and as proposed to be conducted, to enter into the Loan Documents to which it is a party and to carry out the transactions contemplated thereby. The execution, delivery and performance by each Loan Party of this Agreement and all of the other Loan Documents to which such Loan Party is a party have been duly and validly authorized, do not violate such Loan Party's Organic Documents, or any law or any agreement or instrument or any court order which is binding upon any Loan Party or its property, do not constitute grounds for acceleration of any Indebtedness or obligation under any agreement or instrument which is binding upon any Loan Party or its property, and do not require the consent of any Person. No Loan Party is required to obtain any government approval, consent, or authorization from, or to file any declaration or statement with, any Governmental Authority in connection with or as a condition to the execution, delivery or performance of any of the Loan Documents (other than any required post-closing filings with the Securities and Exchange Commission). This Agreement and each of the other Loan Documents have been duly executed and delivered by, and are enforceable against, each of the Loan Parties who have signed them, in accordance with their respective terms, except as such enforceability may be limited by (a) bankruptcy, insolvency, reorganization, moratorium or similar laws of general applicability affecting the enforcement of creditors' rights and (b) the application of general principles of equity (regardless of whether such enforceability is considered in a proceeding in equity or at law). Section 18 of the Information Certificate(s) sets forth the ownership of each Borrower. Section 20 of the Information Certificate(s) sets forth the ownership of each of Borrowers' Subsidiaries.

5.2 Names; Trade Names and Styles. The name of each Loan Party set forth in Section 1 of each Information Certificate(s) is its correct and complete legal name as of the date hereof, and no Loan Party has used any other name at any time in the past five years, or at any time will use any other name, in any tax filing made in any jurisdiction. Listed in Section 8 of the Information Certificate(s) are all prior names used by each Loan Party at any time in the past five years. Listed in Section 7 of the Information Certificate(s) are all of the present and prior trade names used by any Loan Party at any time in the past five years. Borrowers shall give Lender at least ten (10) days' prior written notice (and will deliver an updated Section 7 or Section 8 of the Information Certificate(s), as applicable, to reflect the same) of any change in the legal name or trade name of any Borrower or any other Loan Party.

5.3 Title to Collateral; Third Party Locations; Permitted Liens. Each Loan Party has, and at all times will continue to have, good and marketable title to all of the Collateral. The Collateral now is, and at all times will remain, free and clear of any and all Liens, except for Permitted Liens. Lender now has, and will at all times continue to have, a first-priority perfected and enforceable security interest in all of the Collateral, and each Loan Party will at all times defend Lender and the Collateral against all claims of others. None of the Collateral which is Equipment is, or will at any time, be affixed to any real property that is not subject to a mortgage in favor of Lender in such a manner, or with such intent, as to become a fixture. Except for leases or subleases as to which Borrowers shall use commercially reasonable efforts to deliver to Lender a landlord's waiver in form and substance satisfactory to Lender, no Loan Party is or will be a lessee or sublessee under any real property lease or

sublease. Except for warehouses as to which Borrowers shall use commercially reasonable efforts to deliver to Lender a warehouseman's waiver in form and substance satisfactory to Lender, no Loan Party is or will at any time be a bailor of any Goods at any warehouse or otherwise. Prior to causing or permitting any Collateral to at any time be located upon premises other than the locations listed in Sections 27-32 of the Information Certificate(s), in which any third party (including any landlord, warehouseman, or otherwise) has an interest, Borrowers shall give Lender prior written notice thereof and the applicable Loan Party shall use commercially reasonable efforts to cause each such third party to execute and deliver to Lender, in form and substance acceptable to Lender, such waivers, collateral access agreements, and subordinations as Lender shall specify, so as to, among other things, ensure that Lender's rights in the Collateral are, and will at all times continue to be, superior to the rights of any such third party and that Lender has access to such Collateral. Each applicable Loan Party will keep at all times in full force and effect, and will comply in all material respects at all times with all the terms of, any lease of real property where any of the Collateral now or in the future may be located.

5.4 Accounts, Chattel Paper and Inventory.

(a) As of each date reported by Borrowers, all Accounts which Borrowers have then reported to Lender as then being Eligible Accounts comply in all respects with the criteria for eligibility set forth in the definition of Eligible Accounts. All such Accounts and Chattel Paper are genuine and in all respects what they purport to be, arise out of a completed, bona fide and unconditional and non-contingent sale and delivery of goods or rendition of services by Borrowers in the ordinary course of its business and in accordance with the terms and conditions of all purchase orders, contracts or other documents relating thereto, each Account Debtor thereunder had the capacity to contract at the time any contract or other document giving rise to such Accounts and Chattel Paper were executed, and the transactions giving rise to such Accounts and Chattel Paper comply with all applicable laws and governmental rules and regulations.

(b) As of each date reported by Borrowers, all Inventory which Borrowers have then reported to Lender as then being Eligible Inventory complies in all respects with the criteria for eligibility set forth in the definition of Eligible Inventory.

5.5 Electronic Chattel Paper. To the extent that any Loan Party obtains or maintains any Electronic Chattel Paper, such Loan Party shall at all times create, store and assign the record or records comprising the Electronic Chattel Paper in such a manner that (a) a single authoritative copy of the record or records exists which is unique, identifiable and except as otherwise provided below, unalterable, (b) the authoritative copy identifies Lender as the assignee of the record or records, (c) the authoritative copy is communicated to and maintained by Lender or its designated custodian, (d) copies or revisions that add or change an identified assignee of the authoritative copy can only be made with the participation of Lender, (e) each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy and (f) any revision of the authoritative copy is readily identifiable as an authorized or unauthorized revision.

5.6 Capitalization; Investment Property.

(a) No Loan Party, directly or indirectly, owns, or shall at any time own, any Equity Interests of any other Person except as set forth in Sections 20 and 41 of the Information Certificate(s), which such Sections of the Information Certificate(s) list all Investment Property owned by each Loan Party.

(b) None of the Pledged Equity has been issued or otherwise transferred in violation of the Securities Act, or other applicable laws of any jurisdiction to which such issuance or transfer may be subject.

(c) The Pledged Equity pledged by each Loan Party hereunder constitutes all of the issued and outstanding Equity Interests of each Issuer owned by such Loan Party.

(d) All of the Pledged Equity has been duly and validly issued and is fully paid and non-assessable, and the holders thereof are not entitled to any preemptive, first refusal, or other similar rights. There are no outstanding options, warrants or similar agreements, documents, or instruments with respect to any of the Pledged Equity.

(e) Each Loan Party has caused each Issuer to amend or to otherwise modify its Organic Documents, books, records, and related agreements, documents, and instruments, as applicable, to reflect the rights and interests of Lender hereunder, and to the extent required to enable and empower Lender to exercise and enforce its rights and remedies hereunder in respect of the Pledged Equity and other Investment Property.

(f) Each Loan Party will take any and all actions required or requested by Lender, from time to time, to (i) cause Lender to obtain exclusive control of any Investment Property in a manner acceptable to Lender and (ii) obtain from any Issuers and such other Persons as Lender shall specify, for the benefit of Lender, written confirmation of Lender's exclusive control over such Investment Property and take such other actions as Lender may request to perfect Lender's security interest in any Investment Property. For purposes of this Section 5.6, Lender shall have exclusive control of Investment Property if (A) pursuant to Section 3.2, such Investment Property consists of certificated securities and the applicable Loan Party delivers such certificated securities to Lender (with all appropriate endorsements); (B) such Investment Property consists of uncertificated securities and either (x) the applicable Loan Party delivers such uncertificated securities to Lender or (y) the Issuer thereof agrees, pursuant to documentation in form and substance satisfactory to Lender, that it will comply with instructions originated by Lender without further consent by the applicable Loan Party, and (C) such Investment Property consists of security entitlements and either (x) Lender becomes the entitlement holder thereof or (y) the appropriate securities intermediary agrees, pursuant to documentation in form and substance satisfactory to Lender, that it will comply with entitlement orders originated by Lender without further consent by the applicable Loan Party. Each Loan Party that is a limited liability company or a partnership hereby represents and warrants that it has not, and at no time will, elect pursuant to the provisions of Section 8-103 of the UCC to provide that its Equity Interests are securities governed by Article 8 of the UCC.

(g) No Loan Party owns, or has any present intention of acquiring, any "margin security" or any "margin stock" within the meaning of Regulations T, U or X of the Board of Governors of the Federal Reserve System (herein called "margin security" and "margin stock"). None of the proceeds of the Loans will be used, directly or indirectly, for the purpose of purchasing or carrying, or for the purpose of reducing or retiring any Indebtedness which was originally incurred to purchase or carry, any margin security or margin stock or for any other purpose which might constitute the transactions contemplated hereby a "purpose credit" within the meaning of said Regulations T, U or X, or cause this Agreement to violate any other regulation of the Board of Governors of the Federal Reserve System or the Exchange Act, or any rules or regulations promulgated under such statutes.

(h) [Reserved].

(i) No Loan Party shall take, or fail to take, any action that would in any manner impair the value or the enforceability of Lender's Lien on any of the Investment Property, or any of Lender's rights or remedies under this Agreement or any other Loan Document with respect to any of the Investment Property.

(j) In the case of any Loan Party which is an Issuer, such Issuer agrees that the terms of Section 7.3(g)(iii) of this Agreement shall apply to such Loan Party with respect to all actions that may be required of it pursuant to such Section 7.3(g)(iii) regarding the Investment Property issued by it.

5.7 Commercial Tort Claims. No Loan Party has any Commercial Tort Claims pending other than those listed in Section 40 of the Information Certificate(s), and each Loan Party shall promptly (but in any case no later than five (5) Business Days thereafter) notify Lender in writing upon incurring or otherwise obtaining a Commercial Tort Claim after the date hereof against any third party. Such notice shall constitute such Loan Party's authorization to amend such Section 40 to add such Commercial Tort Claim and shall automatically be deemed to amend such Section 40 to include such Commercial Tort Claim.

5.8 Jurisdiction of Organization; Location of Collateral. Sections 14 and 27-32 of the Information Certificate(s) set forth (a) each place of business of each Loan Party (including its chief executive office), (b) all locations where all Inventory, Equipment, and other Collateral owned by each Loan Party is kept, and (c) whether each such Collateral location and/or place of business (including each Loan Party's chief executive office) is owned by a Loan Party or leased (and if leased, specifies the complete name and notice address of each lessor). No Collateral is located outside the United States or in the possession of any lessor, bailee, warehouseman or consignee, except as expressly indicated in Sections 27-32 of the Information Certificate(s). Each Loan Party will give Lender at least thirty (30) days' prior written notice before changing its jurisdiction of organization, opening any additional place of business or changing its chief executive office or the location of its books and records.

5.9 Financial Statements and Reports; Solvency.

(a) All financial statements delivered to Lender by or on behalf of any Loan Party have been, and at all times will be, prepared in conformity with GAAP and fairly reflect in all material respects the financial condition of each Loan Party and its Subsidiaries covered thereby, at the times and for the periods therein stated.

(b) As of the date hereof (after giving effect to the Loans and Letters of Credit to be made or issued on the date hereof, and the consummation of the transactions contemplated hereby), and as of each other day that any Loan or Letter of Credit is made or issued (after giving effect thereof), (i) the fair saleable value of all of the assets and properties of each Loan Party, individually, exceeds the aggregate liabilities and Indebtedness of each such Loan Party (including contingent liabilities), (ii) each Loan Party, individually, is solvent and able to pay its debts as they come due, (iii) each Loan Party, individually, has sufficient capital to carry on its business as now conducted and as proposed to be conducted, (iv) no Loan Party is contemplating either the liquidation of all or any substantial portion of its assets or property, or the filing of any petition under any state, federal, or other bankruptcy or insolvency law, and (v) no Loan Party has knowledge of any Person contemplating the filing of any such petition against any Loan Party.

5.10 Tax Returns and Payments; Pension Contributions. Each Loan Party has timely filed all tax returns and reports required by applicable law, has timely paid all applicable Taxes, assessments, deposits and contributions owing by such Loan Party and will timely pay all such items in the future as

they became due and payable. Each Loan Party may, however, defer payment of any contested taxes; *provided*, that such Loan Party (a) in good faith contests its obligation to pay such Taxes by appropriate proceedings promptly and diligently instituted and conducted; (b) notifies Lender in writing of the commencement of, and any material development in, the proceedings; (c) posts bonds or takes any other commercially reasonable steps required to keep the contested taxes from becoming a Lien upon any of the Collateral and (d) maintains adequate reserves therefor in conformity with GAAP. No Loan Party is aware of any claims or adjustments proposed for any prior tax years that could result in additional taxes becoming due and payable by any Loan Party. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other applicable laws. Each Plan is in compliance in all material respects with the applicable provisions of ERISA, the Code and other applicable laws. Each Plan that is intended to be a qualified plan under Section 401(a) of the Code has received a favorable determination letter or opinion letter from the Internal Revenue Service to the effect that the form of such Plan is qualified under Section 401(a) of the Code and the trust related thereto has been determined by the Internal Revenue Service to be exempt from federal income tax under Section 501(a) of the Code, or an application for such a letter is currently being processed by the Internal Revenue Service. To the best knowledge of each Loan Party, nothing has occurred that would prevent or cause the loss of such tax-qualified status. There are no pending or, to the best knowledge of any Loan Party or any ERISA Affiliate, threatened claims, actions or lawsuits, or action by any Governmental Authority, with respect to any Plan that could reasonably be expected to result in liabilities individually or in the aggregate in excess of \$100,000 on any Loan Party. There has been no prohibited transaction or violation of the fiduciary responsibility rules with respect to any Plan that has resulted or could reasonably be expected to result in liabilities individually or in the aggregate on any Loan Party in excess of \$100,000. No ERISA Event has occurred, and no Loan Party or any ERISA Affiliate is aware of any fact, event or circumstance that could reasonably be expected to constitute or result in an ERISA Event with respect to any Pension Plan, in each case that could reasonably be expected to result in liabilities individually or in the aggregate in excess of \$100,000. Each Loan Party and each ERISA Affiliate has met all applicable requirements under the Pension Funding Rules in respect of each Pension Plan, and no waiver of the minimum funding standards under the Pension Funding Rules has been applied for or obtained, in each case except as could not reasonably be expected to result in liabilities individually or in the aggregate to any Loan Party or any ERISA Affiliate in excess of \$100,000. As of the most recent valuation date for any Pension Plan, the funding target attainment percentage (as defined in Section 430(d)(2) of the Code) is 60% or higher and no Loan Party or any ERISA Affiliate knows of any facts or circumstances that could reasonably be expected to cause the funding target attainment percentage for any such plan to drop below 60% as of the most recent valuation date; no Loan Party or any ERISA Affiliate has incurred any liability to the PBGC other than for the payment of premiums, and there are no premium payments which have become due that are unpaid, except as could not reasonably be expected to result in liabilities individually or in the aggregate to any Loan Party or ERISA Affiliate in excess of \$100,000. No Loan Party nor any ERISA Affiliate has engaged in a transaction that could be subject to Section 4069 or Section 4212(c) of ERISA except as could not reasonably be expected to result in liabilities individually or in the aggregate to the Loan Parties in excess of \$100,000. No Pension Plan has been terminated by the plan administrator thereof nor by the PBGC, and no event or circumstance has occurred or exists that could reasonably be expected to cause the PBGC to institute proceedings under Title IV of ERISA to terminate any Pension Plan except as could not reasonably be expected to result in liabilities individually or in the aggregate to the Loan Parties in excess of \$100,000.

5.11 Compliance with Laws; Intellectual Property; Licenses.

(a) Each Loan Party has complied, and will continue at all times to comply, in all material respects with all provisions of all applicable laws and regulations, including those relating to the ownership, use or operations of real or personal property, the conduct and licensing of each Loan Party's

business, the payment and withholding of Taxes, ERISA and other employee matters, and safety and environmental matters pursuant to the Environmental Laws.

(b) No Loan Party has received written notice of default or violation, nor is any Loan Party in default or violation, with respect to any judgment, order, writ, injunction, decree, demand or assessment issued by any court or any federal, state, local, municipal or other Governmental Authority relating to any aspect of any Loan Party's business, affairs, properties or assets. No Loan Party has received written notice of or been charged with, or is, to the knowledge of any Loan Party, under investigation with respect to, any violation in any material respect of any provision of any applicable law. To the best of its knowledge, no Loan Party or any real property owned, leased or used in the operation of the business of any Loan Party is subject to any federal, state or local investigation to determine whether any remedial action is needed to address any Hazardous Materials or an Environmental Release in contravention of any applicable Environmental Law, at, on, or under any real property currently leased, owned or used by a Loan Party nor is a Loan Party liable for any Environmental Release identified or under investigation at, on or under any real property previously owned, leased or used by a Loan Party. To the best of its knowledge, no Loan Party has any contingent liability with respect to any Environmental Release or Hazardous Material on any real property now or previously owned, leased or operated by it.

(c) No Loan Party owns any registered trademarks, registered copyrights or issued patents, except as set forth in Sections 34-36 of the Information Certificate(s). Except as set forth in Section 37 of the Information Certificate(s), and except pursuant to any license agreement for license with respect to products offered by any Loan Party in the ordinary course of its business, none of the Intellectual Property owned by any Loan Party is the subject of any licensing or franchise agreement pursuant to which such Loan Party is the licensor or franchisor. Each Loan Party shall promptly (but in any event within thirty (30) days thereafter) notify Lender in writing of any additional Intellectual Property rights acquired or arising after the Closing Date and shall submit to Lender a supplement to Sections 34-36 of the Information Certificate(s) to reflect such additional rights (**provided**, that such Loan Party's failure to do so shall not impair Lender's security interest therein). Each Loan Party shall execute a separate security agreement granting Lender a security interest in such Intellectual Property (whether owned on the Closing Date or thereafter), in form and substance acceptable to Lender and suitable for registering such security interest in such Intellectual Property with the United States Patent and Trademark Office and/or United States Copyright Office, as applicable (**provided**, that such Loan Party's failure to do so shall not impair Lender's security interest therein). Each Loan Party owns or has, and will at all times continue to own or have, the valid right to use all material patents, trademarks, copyrights, software, computer programs, equipment designs, network designs, equipment configurations, technology and other Intellectual Property used, marketed and sold in such Loan Party's business, and each Loan Party is in compliance, and will continue at all times to comply, in all material respects with all licenses, user agreements and other such agreements regarding the use of Intellectual Property. No Loan Party has any knowledge that, or has received any notice claiming that, any of such Intellectual Property infringes upon or violates the rights of any other Person.

(d) Each Loan Party has and will continue at all times to have, all material federal, state, local and other licenses and permits required to be maintained in connection with such Loan Party's business operations, and its ownership, use and operation of any real property, and all such licenses and permits, necessary for the operation of the business are valid and will remain and in full force and effect. Each Loan Party has, and will continue at all times to have, complied with the requirements of such licenses and permits in all material respects, and has received no written notice of any pending or threatened proceedings for the suspension, termination, revocation or limitation thereof. No Loan Party

is aware of any facts or conditions that could reasonably be expected to cause or permit any of such licenses or permits to be voided, revoked or withdrawn.

(e) In addition to and without limiting the generality of clause (a) above, each Loan Party shall (i) comply in all material respects with applicable provisions of ERISA and the Code with respect to all Plans, (ii) without the prior written consent of Lender, not take any action or fail to take action the result of which could result in a Loan Party or ERISA Affiliate incurring a material liability to the PBGC or to a Multiemployer Plan (other than to pay contributions or premiums payable in the ordinary course), (iii) allow any facts or circumstances to exist with respect to one or more Plans that, in the aggregate, reasonably could be expected to result in a Material Adverse Effect, (iv) not participate in any prohibited transaction that could result in other than a de minimis civil penalty excise tax, fiduciary liability or correction obligation under ERISA or the Code, (v) operate each Plan in such a manner that will not incur any material tax liability under the Code (including Section 4980B of the Code), and (vi) furnish to Lender upon Lender's written request such additional information about any Plan for which any Loan Party or ERISA Affiliate could reasonably expect to incur any material liability. With respect to each Pension Plan (other than a Multiemployer Plan) except as could not reasonably be expected to result in liability to the Loan Parties, the Loan Parties and the ERISA Affiliates shall (y) satisfy in full and in a timely manner, without incurring any late payment or underpayment charge or penalty and without giving rise to any Lien, all of the contribution and funding requirements of the Code and of ERISA, and (z) pay, or cause to be paid, to the PBGC in a timely manner, without incurring any late payment or underpayment charge or penalty, all premiums required pursuant to ERISA.

5.12 Litigation. Section 50 of the Information Certificate(s) discloses all claims, proceedings, litigation or investigations pending or (to the best of each Loan Party's knowledge) threatened against any Loan Party as of the Closing Date. There is no claim, suit, litigation, proceeding or investigation pending or (to the best of each Loan Party's knowledge) threatened by or against or affecting any Loan Party in any court or before any Governmental Authority (or any basis therefor known to any Loan Party) which may reasonably be expected to result, either separately or in the aggregate, in liability in excess of \$100,000 for the Loan Parties, in any Material Adverse Effect, or in any material impairment in the ability of any Loan Party to carry on its business in substantially the same manner as it is now being conducted.

5.13 Use of Proceeds. All proceeds of all Loans and Letters of Credit shall be used by Borrowers solely (a) with respect to Loans made on the Closing Date, to repay in full the Indebtedness of Borrower to TD Bank, N.A., (b) to pay a portion of the purchase price in connection with a Permitted Acquisition in an aggregate amount not to exceed the amount set forth on Schedule C, (c) to pay the fees, costs, and expenses incurred in connection with this Agreement, the other Loan Documents, and the transactions contemplated hereby and thereby, (d) for Borrowers' working capital purposes and (e) for such other purposes as specifically permitted pursuant to the terms of this Agreement. All proceeds of all Loans and Letters of Credit will be used solely for lawful business purposes.

5.14 Insurance.

(a) Each Loan Party will at all times carry property, liability and other insurance, with insurers acceptable to Lender, in such form and amounts, and with such deductibles and other provisions, as Lender shall require, and Borrowers will provide Lender with evidence satisfactory to Lender that such insurance is, at all times, in full force and effect. A true and complete listing of such insurance as of the Closing Date, including issuers, coverages and deductibles, is set forth in Section 49 of the Information Certificate(s). Each property insurance policy shall name Lender as lender loss payee and shall contain a lender's loss payable endorsement in form acceptable to Lender, each liability insurance

policy shall name Lender as an additional insured, and each business interruption insurance policy shall be collaterally assigned to Lender, all in form and substance reasonably satisfactory to Lender. All policies of insurance shall provide that they may not be cancelled or changed without at least thirty (30) days' prior written notice to Lender (or ten (10) days in the case of cancellation for non-payment of premium), and shall otherwise be in form and substance reasonably satisfactory to Lender. Borrowers shall advise Lender promptly of any policy cancellation, non-renewal, reduction, or material amendment with respect to any insurance policies maintained by any Loan Party or any receipt by any Loan Party of any notice from any insurance carrier regarding any intended or threatened cancellation, non-renewal, reduction or material amendment of any of such policies, and Borrowers shall promptly deliver to Lender copies of all notices and related documentation received by any Loan Party in connection with the same.

(b) Borrowers shall deliver to Lender no later than fifteen (15) days prior to the expiration of any then current insurance policies, insurance certificates evidencing renewal of all such insurance policies required by this Section 5.14. Borrowers shall deliver to Lender, upon Lender's request, certificates evidencing such insurance coverage in such form as Lender shall specify. If any Loan Party fails to provide Lender with a certificate of insurance or other evidence of the continuing insurance coverage required by this Agreement within the time period set forth in the first sentence of this Section 5.14(b), Lender may purchase insurance required by this Agreement at Borrowers' expense. This insurance may, but need not, protect any Loan Party's interests.

5.15 Financial, Collateral and Other Reporting / Notices. Each Loan Party has kept and will at all times keep adequate records and books of account with respect to its business activities and the Collateral in which proper entries are made in accordance with GAAP reflecting all its financial transactions. Each Loan Party will cause to be prepared and furnished to Lender, in each case in a form and in such detail as is acceptable to Lender the following items (the items to be provided under this Section 5.15 shall be delivered to Lender by posting on Passport 6.0 (or, if requested by Lender, by another form of Approved Electronic Communication or in writing)).

(a) **Annual Financial Statements.** Not later than ninety (90) days after the close of each Fiscal Year, audited financial statements of each Loan Party as of the end of such Fiscal Year, including balance sheet, income statement, and statement of cash flow for such Fiscal Year, in each case on a consolidated and consolidating basis, audited (without qualification other than (i) a qualification relating to (i) material weaknesses in internal control over financial reporting related to TransAct Technologies not designing and maintaining effective controls over (A) user access within TransAct Technologies' enterprise resource planning (ERP) system, Oracle, to ensure appropriate segregation of duties and to adequately restrict user access to appropriate personnel, and (B) the completeness and accuracy of information included in key spreadsheets supporting TransAct Technologies' accounting records, or (ii) a "going concern" or like qualification or exception solely as a result of the Scheduled Maturity Date being scheduled to occur within twelve (12) months from the date of the audit opinion) by a firm of independent certified public accountants of recognized standing selected by Borrowers but acceptable to Lender, together with a copy of any management letter issued in connection therewith. Concurrently with the delivery of such financial statements, Borrowing Agent shall deliver to Lender a Compliance Certificate, indicating whether (i) Borrowers are in compliance with each of the covenants specified in Section 5.26, and setting forth a detailed calculation of such covenants, and (ii) any Default or Event of Default is then in existence;

(b) **Quarterly Financial Statements.** Not later than forty-five (45) days after the close of each of the first three Fiscal Quarters, unaudited financial statements of each Loan Party as of the end of such Fiscal Quarter and of the portion of the Fiscal Year then elapsed, including balance sheet, income statement, and statement of cash flow for such Fiscal Quarter, in each case on a consolidated and

consolidating basis, reviewed by a firm of independent certified public accountants of recognized standing selected by Borrowers but acceptable to Lender, together with a copy of any management letter issued in connection therewith. Concurrently with the delivery of such financial statements, Borrowing Agent shall deliver to Lender a Compliance Certificate, indicating whether (i) Borrowers are in compliance with each of the covenants specified in Section 5.26, and setting forth a detailed calculation of such covenants, and (ii) any Default or Event of Default is then in existence;

(c) **Interim Financial Statements.** Not later than thirty (30) days after the end of each month hereafter (sixty (60) days after the end of the last month of each Fiscal Year), (i) the Monthly Financial Model and (ii) unaudited interim financial statements of each Loan Party as of the end of such month and of the portion of such Fiscal Year then elapsed, including balance sheet, income statement, statement of cash flow, and results of their respective operations during such month and the then-elapsed portion of the Fiscal Year, together with comparative figures for the same periods in the immediately preceding Fiscal Year and the corresponding figures from the budget for the Fiscal Year covered by such financial statements, in each case on a consolidated and consolidating basis, certified by an Authorized Officer of Borrowing Agent as prepared in accordance with GAAP and fairly presenting the consolidated financial position and results of operations of each Loan Party for such month and period subject only to changes from ordinary course year-end audit adjustments and except that such statements need not contain footnotes. Concurrently with the delivery of such financial statements, Borrowing Agent shall deliver to Lender a Compliance Certificate, indicating whether (i) Borrowers are in compliance with each of the covenants specified in Section 5.26, and setting forth a detailed calculation of such covenants, and (ii) any Default or Event of Default is then in existence;

(d) **Borrowing Base / Collateral Reports / Insurance Certificates / Information Certificates / Other Items.** The items described on Schedule D hereto by the respective dates set forth therein.

(e) **Projections, Etc.** Not later than sixty (60) days after the beginning of each Fiscal Year, monthly business projections for such Fiscal Year for the Loan Parties on a consolidated and consolidating basis, which projections shall include for each such period Borrowing Base projections, profit and loss projections, balance sheet projections, income statement projections and cash flow projections, together with appropriate supporting details and a statement of underlying assumptions used in preparing such projections;

(f) **Shareholder Reports, Etc.** To the extent the following are not publicly available on the website of Borrowing Agent or on the website of the Securities and Exchange Commission, promptly after the sending or filing thereof, as the case may be, copies of any proxy statements, financial statements or reports which each Loan Party has made available to its shareholders and copies of any regular, periodic and special reports or registration statements which any Loan Party files with the Securities and Exchange Commission or any Governmental Authority which may be substituted therefor, or any national securities exchange;

(g) **ERISA Reports.** Copies of any annual report to be filed pursuant to the requirements of ERISA in connection with each plan subject thereto promptly upon request by Lender and in addition, each Loan Party shall promptly notify Lender upon having knowledge of any ERISA Event;

(h) **Tax Returns.** Upon request from Lender, each federal and state income tax return filed by any Loan Party promptly, together with such supporting documentation as is supplied to the

applicable tax authority with such return and proof of payment of any amounts owing with respect to such return; and

(i) **Notification of Certain Changes.** Borrowers will promptly (and in no case later than the earlier of (i) four (4) Business Days after the occurrence of any of the following and (ii) such other date that such information is required to be delivered pursuant to this Agreement or any other Loan Document) notify Lender in writing of: (i) the occurrence of any Default or Event of Default, (ii) the occurrence of any event that has had, or could reasonably be expected to have, a Material Adverse Effect, (iii) any change in any Loan Party's Senior Officers or directors, (iv) any material investigation, action, suit, proceeding or claim (or any material development with respect to any existing investigation, action, suit, proceeding or claim) relating to any Loan Party, any officer or director of a Loan Party, the Collateral or which may result in an adverse impact upon any Loan Party's business, assets or financial condition, (v) any violation or asserted violation of any applicable law (including any Environmental Law), if an adverse resolution could have a Material Adverse Effect or otherwise result in material liability to any Loan Party, (vi) any event or the existence of any circumstance that has resulted in, or could reasonably be expected to result in, any material adverse change in the business or financial affairs of any Loan Party, any Default, or any Event of Default, or which would make any representation or warranty previously made by any Loan Party to Lender untrue in any material respect or constitute a material breach if such representation or warranty was then being made, (vii) any actual or alleged breaches of any Material Contract or termination or threat to terminate any Material Contract or any material amendment to or modification of a Material Contract, or the execution of any new Material Contract by any Loan Party, (viii) any change in any Loan Party's independent certified public accounting firm and (ix) a Senior Officer obtains actual knowledge that any person or group of persons (within the meaning of Section 13(d) or 14(a) of the Exchange Act) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Exchange Act) of more than 10% of the voting Equity Interests of TransAct Technologies. In the event of each such notice under this Section 5.15(i), Borrowers shall give notice to Lender of the action or actions that each Loan Party has taken, is taking, or proposes to take with respect to the event or events giving rise to such notice obligation.

(j) **Other Information.** Promptly upon request, such other data and information (financial and otherwise) as Lender, from time to time, may reasonably request, bearing upon or related to the Collateral or each Loan Party's business or financial condition or results of operations

5.16 Litigation Cooperation. Should any third-party suit, regulatory action, or any other judicial, administrative, or similar proceeding be instituted by or against Lender with respect to any Collateral or in any manner relating to any Loan Party, this Agreement, any other Loan Document or the transactions contemplated hereby, each Loan Party shall, without expense to Lender, make available each Loan Party, such Loan Party's officers, employees and agents, and any Loan Party's books and records, without charge, to the extent that Lender may deem them reasonably necessary in order to prosecute or defend any such suit or proceeding.

5.17 Maintenance of Collateral, Etc. Each Loan Party will maintain all of the Collateral in good working condition, ordinary wear and tear excepted, and no Loan Party will use the Collateral for any unlawful purpose.

5.18 Material Contracts. Except as expressly disclosed in Section 53 of the Information Certificate(s), no Loan Party is (a) a party to any contract which has had or could reasonably be expected to have a Material Adverse Effect or (b) in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (x) any contract to which it is a party or by which

any of its assets or properties is bound, which default, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect or result in liabilities in excess of \$100,000 or (y) any Material Contract. Except for the contracts and other agreements listed in Section 53 of the Information Certificate(s), no Loan Party is party, as of the Closing Date, to any (a) employment agreements covering the management of any Loan Party, (b) collective bargaining agreements or other labor agreements covering any employees of any Loan Party, (c) agreements for managerial, consulting or similar services to which any Loan Party is a party or by which it is bound, (d) agreements regarding any Loan Party, its assets or operations or any investment therein to which any of its equity holders is a party, (e) patent licenses, trademark licenses, copyright licenses or other lease or license agreements to which any Loan Party is a party, either as lessor or lessee, or as licensor or licensee, (f) distribution, marketing or supply agreements to which any Loan Party is a party, (g) customer agreements to which any Loan Party is a party (in each case with respect to any contract of the type described in the preceding clauses (a) to (g) requiring payments of more than \$100,000 in the aggregate in any Fiscal Year), (h) partnership agreements to which any Loan Party is a partner, limited liability company agreements to which any Loan Party is a member or manager, or joint venture agreements to which any Loan Party is a party, (i) real estate leases, or (j) any other contract to which any Loan Party is a party where the breach, nonperformance or cancellation of which, could reasonably be expected to have a Material Adverse Effect; (each such contract and agreement disclosed in Section 53 of the Information Certificate and described in the immediately preceding clauses (a) to (j), a “**Material Contract**”).

5.19 No Default. No Default or Event of Default has occurred and is continuing.

5.20 No Material Adverse Change. Since December 31, 2019 there has been no material adverse change in the financial condition, business, prospects, operations, or properties of any Loan Party, except as disclosed by Borrowing Agent in writing received by Lender prior to the Closing Date.

5.21 Full Disclosure. No written report, notice, certificate, information or other statement delivered or made (including, in electronic form) by or on behalf of any Loan Party or any of their respective Affiliates to Lender in connection with this Agreement or any other Loan Document contains or will at any time contain any untrue statement of a material fact, or omits or will at any time omit to state any material fact necessary to make any statements contained herein or therein not misleading. Except for matters of a general economic or political nature which do not affect any Loan Party uniquely, there is no fact presently known to any Loan Party which has not been disclosed to Lender, which has had or could reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect.

5.22 Sensitive Payments. No Loan Party (a) has made or will at any time make any contributions, payments or gifts to or for the private use of any governmental official, employee or agent where either the payment or the purpose of such contribution, payment or gift is illegal under the applicable laws of the United States or the jurisdiction in which made or any other applicable jurisdiction, (b) has established or maintained or will at any time establish or maintain any unrecorded fund or asset for any purpose or made any false or artificial entries on its books, (c) has made or will at any time make any payments to any Person with the intention that any part of such payment was to be used for any purpose other than that described in the documents supporting the payment, or (d) has engaged in or will at any time engage in any “trading with the enemy” or other transactions violating any rules or regulations of the Office of Foreign Assets Control or any similar applicable laws, rules or regulations.

5.23 Inactive Subsidiary. The Inactive Subsidiary does not (a) own any assets (other than assets of a de minimis nature), (b) have any liabilities (other than liabilities of a de minimis nature), or (c) engage in any business activity. If at any time the Inactive Subsidiary shall cease to satisfy any of the

requirements for an Inactive Subsidiary, Borrowers shall promptly give written notice of such occurrence to Lender and shall comply with Section 3.3.

5.24 [Reserved].

5.25 Negative Covenants. No Loan Party shall, and no Loan Party shall permit any of its Subsidiaries to, without Lender's prior written consent:

(a) merge or consolidate with another Person, form any new Subsidiary or acquire any interest in any Person;

(b) acquire any assets except (i) in the ordinary course of business, (ii) in connection with a Permitted Acquisition, or (iii) as otherwise expressly permitted by this Agreement;

(c) enter into any transaction outside the ordinary course of business that is not expressly permitted by this Agreement;

(d) sell, transfer, return, or dispose of any Collateral or other assets with an aggregate value in excess of \$20,000 in any calendar month, other than:

(i) the sale by Loan Parties of Inventory in the ordinary course of its business,

(ii) any sale, lease, transfer or other disposition by a Loan Party to any other Loan Party in the ordinary course of business and not otherwise prohibited by this Agreement,

(iii) any sale, disposition, or transfer of obsolete, worn-out or unneeded Equipment, so long as the proceeds of such sale, disposition or transfer are applied to repay the Loans in accordance with Section 1.8(a) of this Agreement,

(iv) dispositions and transfers of cash and cash equivalents in the ordinary course of business and not in violation of this Agreement, and

(v) the forgiveness of debt in connection with a Permitted Acquisition, as specified for such Permitted Acquisition on Schedule C;

(e) make any loans to, or investments in, any Affiliate or other Person in the form of money or other assets; **provided**, that (i) Borrowers may make loans and investments in their respective wholly-owned domestic Subsidiaries that are Loan Parties, (ii) Borrowers may make loans and investments in their respective wholly-owned Subsidiaries that are not Loan Parties so long as the aggregate outstanding principal balance of such loans or investments does not exceed \$250,000 at any time, (iii) Borrowers may permit accounts receivable due from their respective wholly-owned Subsidiaries arising in the ordinary course of business so long as the aggregate outstanding principal balance of any such accounts receivable shall not exceed \$4,000,000 at any time, (iv) a Loan Party may make loans to, and investments in, another Loan Party, (v) a Loan Party may receive minority investments in Persons given to such Loan Party by such Person in exchange for services provided by the applicable Loan Party, (vi) a Loan Party may make loans not involving the transfer of cash or cash equivalents to officers, directors, employees or consultants of such Loan Party for the purchase of equity interests, or rights to acquire equity interests, issued for compensatory purposes and (vii) a Loan Party may make a loan to the seller in connection with a Permitted Acquisition in an aggregate principal amount not to exceed the amount specified for such Permitted Acquisition on Schedule C;

(f) incur any Indebtedness other than the Obligations and Permitted Indebtedness;

(g) create, incur, assume or suffer to exist any Lien or other encumbrance of any nature whatsoever, other than in favor of Lender to secure the Obligations, on any of the Collateral whether now or hereafter owned, other than Permitted Liens;

(h) guaranty or otherwise become liable with respect to the obligations of any Person other than (i) the Obligations and (ii) guarantees in respect of Permitted Indebtedness;

(i) [reserved];

(j) redeem, retire, purchase or otherwise acquire, directly or indirectly, any of Loan Party's Equity Interests unless the aggregate principal amount of Revolving Loans outstanding shall be \$0 for the thirty (30) day period immediately prior to and after giving effect to any such redemption, retirement, purchase or acquisition;

(k) make any change in any Loan Party's capital structure; **provided** that Borrowers may issue additional Equity Interests so long as such issuance does not result in the occurrence of an Event of Default under Section 7.1(l);

(l) dissolve or elect to dissolve;

(m) engage, directly or indirectly, in a business other than the business which is being conducted on the date hereof or any business reasonably related, incidental or ancillary thereto, wind up its business operations or cease substantially all, or any material portion, of its normal business operations, or suffer any material disruption, interruption or discontinuance of a material portion of its normal business operations;

(n) pay any principal or other amount on any Indebtedness that is contractually subordinated to Lender in violation of the applicable subordination or intercreditor agreement or optionally prepay, redeem, defease, purchase, or otherwise acquire any Indebtedness of any Loan Party or its Subsidiaries, other than the Obligations in accordance with this Agreement;

(o) enter into any transaction with an Affiliate other than on arms-length terms;

(p) change its jurisdiction of organization or enter into any transaction which has the effect of changing its jurisdiction of organization except as provided for in Section 5.8;

(q) agree, consent, permit or otherwise undertake to amend or otherwise modify any of the terms or provisions of any Loan Party's Organic Documents, except for such amendments or other modifications required by applicable law or that are not adverse to Lender;

(r) enter into or assume any agreement prohibiting the creation or assumption of any Lien on the Collateral to secure the Obligations upon its properties or assets, whether now owned or hereafter acquired;

(s) create or otherwise cause or suffer to exist or become effective any encumbrance or restriction (other than any Loan Documents) of any kind on the ability of any such Person to pay or make any dividends or distributions to Borrowers, to pay any of the Obligations, to make loans or advances or

to transfer any of its property or assets to Borrowers, except customary terms and conditions in respect of any Permitted Indebtedness or Permitted Liens; or

(t) (i) divide or enter into any plan of division pursuant to section 18-217 of the Delaware Limited Liability Company Act or any similar statute or provision under any applicable law or otherwise, (ii) dispose of any property through a plan of division under the Delaware Limited Liability Company Act or any comparable transaction under any similar law or (iii) make any payment or distribution pursuant to a plan of division under the Delaware Limited Liability Company Act or any comparable transaction under any similar law.

5.26 Financial Covenants. Each Loan Party shall at all times comply with the Financial Covenants described on Schedule E.

5.27 Employee and Labor Matters. There is (a) no unfair labor practice complaint pending or, to the knowledge of any Borrower, threatened against any Loan Party or its Subsidiaries before any Governmental Authority and no grievance or arbitration proceeding pending or threatened against any Loan Party or its Subsidiaries which arises out of or under any collective bargaining agreement and that could reasonably be expected to result in a material liability, (b) no strike, labor dispute, slowdown, stoppage or similar action or grievance pending or threatened in writing against any Loan Party or its Subsidiaries that could reasonably be expected to result in a material liability, or (c) to the knowledge of any Borrower, after due inquiry, no union representation question existing with respect to the employees of any Loan Party or its Subsidiaries and no union organizing activity taking place with respect to any of the employees of any Loan Party or its Subsidiaries. None of any Loan Party or its Subsidiaries has incurred any liability or obligation under the Worker Adjustment and Retraining Notification Act or similar state law, which remains unpaid or unsatisfied. The hours worked and payments made to employees of each Loan Party and its Subsidiaries have not been in violation of the Fair Labor Standards Act or any other applicable legal requirements. All material payments due from any Loan Party or its Subsidiaries on account of wages and employee health and welfare insurance and other benefits have been paid or accrued as a liability on the books of Borrowers, except where the failure to do so could not, individually or in the aggregate, reasonably be expected to result in a material liability.

5.28 Post Closing Matters. Loan Parties shall execute and deliver the documents and take such actions (or cause such actions to be taken by other Persons) as are set forth in the section labeled "Post Closing Deliverables and Covenants" on Exhibit B, in each case, on or prior to the deadlines specified on Exhibit B (or such later dates as Lender may agree in its sole discretion).

6. RELEASE, LIMITATION OF LIABILITY AND INDEMNITY.

6.1 Release. Each Borrower and each other Loan Party on behalf of itself and its successors, assigns, heirs, and other legal representatives, hereby absolutely, unconditionally and irrevocably releases, remises and forever discharges Lender and any and all Participants, their successors and assigns, their Affiliates, their respective directors, officers, employees, attorneys and agents and any other Person affiliated with or representing Lender (the "**Released Parties**") of and from any and all liability, including all actual or potential claims, demands or causes of action of any kind, nature or description whatsoever, whether arising in law or equity or under contract or tort or under any state or federal law or otherwise which each Borrower or any Loan Party or any of their successors, assigns, or other legal representatives has had, now has or has made claim to have against any of the Released Parties for or by reason of any act, omission, matter, cause or thing whatsoever, including any liability arising from acts or omissions pertaining to the transactions contemplated by this Agreement and the other Loan Documents, whether based on errors of judgment or mistake of law or fact, from the

beginning of time to and including the Closing Date, whether such claims, demands and causes of action are matured or known or unknown (except any liability arising solely as the result of the gross negligence or willful misconduct of such Released Parties, as finally determined by a court of competent jurisdiction). Notwithstanding any provision in this Agreement to the contrary, this Section 6.1 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Loans. Such release is made on the date hereof and remade upon each request for a Loan or Letter of Credit by Borrowers.

6.2 Limitation of Liability. In no circumstance will any of the Released Parties be liable for lost profits or other special, punitive, or consequential damages. Notwithstanding any provision in this Agreement to the contrary, this Section 6.2 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Loans.

6.3 Indemnity/Currency Indemnity.

(a) Each Loan Party hereby agrees to indemnify the Released Parties and hold them harmless from and against any and all claims, debts, liabilities, losses, demands, obligations, actions, causes of action, fines, penalties, costs and expenses (including attorneys' fees and consultants' fees), of every nature, character and description (including, without limitation, natural resources damages, property damage and claims for personal injury), which the Released Parties may sustain or incur based upon or arising out of any of the transactions contemplated by this Agreement or any other Loan Documents or any of the Obligations, including any transactions or occurrences relating to the issuance of any Letter of Credit, any Collateral relating thereto, any drafts thereunder and any errors or omissions relating thereto (including, without limitation, any loss or claim due to any action or inaction taken by the issuer of any Letter of Credit or Lender) (and for this purpose any charges to Lender by any issuer of Letters of Credit shall be conclusive as to their appropriateness and may be charged to the Loan Account), or any other matter, including any breach of any covenant or representation or warranty relating to any Environmental Law or an Environmental Release, cause or thing whatsoever occurred, done, omitted or suffered to be done by Lender relating to any Loan Party or the Obligations (except any such amounts sustained or incurred solely as the result of the gross negligence or willful misconduct of such Released Parties, as finally determined by a court of competent jurisdiction). Notwithstanding any provision in this Agreement to the contrary, this Section 6.3 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Obligations.

(b) If, for the purposes of obtaining or enforcing judgment in any court in any jurisdiction with respect to this Agreement or any Loan Document, it becomes necessary to convert into the currency of such jurisdiction (the "**Judgment Currency**") any amount due under this Agreement or under any Loan Document in any currency other than the Judgment Currency (the "**Currency Due**") (or for the purposes of Section 1.7(d)), then, to the extent permitted by law, conversion shall be made at the exchange rate reasonably selected by Lender on the Business Day before the day on which judgment is given (or for the purposes of Section 1.7(d), on the Business Day on which the payment was received by Lender). In the event that there is a change in such exchange rate between the Business Day before the day on which the judgment is given and the date of receipt by Lender of the amount due, each Loan Party shall to the extent permitted by law, on the date of receipt by Lender, pay such additional amounts, if any, or be entitled to receive reimbursement of such amount, if any as may be necessary to ensure that the amount received by Lender on such date is the amount in the Judgment Currency which (when converted at such exchange rate on the date of receipt by Lender in accordance with normal banking procedures in the relevant jurisdiction) is the amount then due under this Agreement or such Loan Document in the Currency Due. If the amount of the Currency Due (including any Currency Due for purposes of Section 1.7(c)) which Lender is so able to purchase is less than the amount of the Currency Due

(including any Currency Due for purposes of Section 1.7(c)) originally due to it, each Loan Party shall to the extent permitted by law jointly and severally indemnify and save Lender harmless from and against loss or damage arising as a result of such deficiency.

7. EVENTS OF DEFAULT AND REMEDIES.

7.1 Events of Default. The occurrence of any of the following events shall constitute an “*Event of Default*”:

(a) if any warranty, representation, statement, report or certificate made or delivered to Lender by or on behalf of any Loan Party is untrue or misleading in any material respect;

(b) if any Loan Party fails to pay to Lender, (i) when due, any principal or interest payment required under this Agreement or any other Loan Document, or (ii) within three (3) Business Days when due, any other monetary Obligation;

(c) (1) if any Loan Party defaults in the due observance or performance of any covenant, condition or agreement contained in Section 3.2, 4.1, 4.6, 4.7, 4.8, 5.2, 5.3, 5.13, 5.14, 5.15, 5.17, 5.25, 5.26 or 5.28 of this Agreement; or

(2) if any Loan Party defaults in the due observance or performance of any covenant, condition or agreement contained in any provision of this Agreement or any other Loan Document and not addressed in clauses Sections 7.1(a), (b) or (c)(1), and the continuance of such default unremedied for a period of fifteen (15) Business Days; **provided**, that such fifteen (15) Business Day grace period shall not be available for any default that is not reasonably capable of being cured within such period or for any intentional default;

(d) if one or more judgments aggregating in excess of \$250,000 is obtained against any Loan Party which remains unstayed for more than thirty (30) days or is enforced;

(e) any default with respect to any Indebtedness (other than the Obligations) of any Loan Party if (i) such default shall consist of the failure to pay such Indebtedness when due, whether by acceleration or otherwise, or (ii) the effect of such default is to permit the holder, with or without notice or lapse of time or both, to accelerate the maturity of any such Indebtedness or to cause such Indebtedness to become due prior to the stated maturity thereof (without regard to the existence of any subordination or intercreditor agreements);

(f) the dissolution, termination of existence, insolvency or business failure or suspension or cessation of business as usual of any Loan Party (or of any general partner of any Loan Party if it is a partnership);

(g) if any Loan Party shall apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of it or any of its properties, admit in writing its inability to pay its debts as they mature, make a general assignment for the benefit of creditors, be adjudicated a bankrupt or insolvent or be the subject of an order for relief under the Bankruptcy Code or under any bankruptcy or insolvency law of a foreign jurisdiction, or file a voluntary petition in bankruptcy, or a petition or an answer seeking reorganization or an arrangement with creditors or to take advantage of any bankruptcy, reorganization, insolvency, readjustment of debt, dissolution or liquidation law or statute, or an answer admitting the material allegations of a petition filed against it in any proceeding under any such law, or take or permit to be taken any action in furtherance of or for the purpose of effecting any of the foregoing;

(h) the commencement of an involuntary case or other proceeding against any Loan Party seeking liquidation, reorganization or other relief with respect to it or its debts under any bankruptcy, insolvency or other similar applicable law or seeking the appointment of a trustee, receiver, liquidator, custodian or other similar official of it or any substantial part of its property and the same is not dismissed within sixty (60) days, or if an order for relief is entered against any Loan Party under any bankruptcy insolvency or other similar applicable law as now or hereafter in effect;

(i) the actual or attempted revocation or termination of, or limitation or denial of liability under, any guaranty of any of the Obligations, or any security document securing any of the Obligations, by any Loan Party;

(j) if any Loan Party makes any payment on account of any Indebtedness or obligation which has been contractually subordinated to the Obligations other than payments which are not prohibited by the applicable subordination provisions pertaining thereto, or if any Person who has subordinated such Indebtedness or obligations attempts to limit or terminate any applicable subordination provisions pertaining thereto;

(k) if there is any actual indictment or conviction of any Borrower, any Guarantor or any of their respective Senior Officers under any criminal statute in each case related to a felony committed in the direct conduct of any Borrower's or such Guarantor's business, as applicable;

(l) if (i) any person or group of persons (within the meaning of Section 13(d) or 14(a) of the Exchange Act) shall have acquired beneficial ownership (within the meaning of Rule 13d-3 promulgated by the Securities and Exchange Commission under the Exchange Act) of more than 50% of the voting Equity Interests of TransAct Technologies; (ii) during any period of 12 consecutive months, a majority of the members of the board of directors of TransAct Technologies cease to be composed of individuals (1) who were members of that board on the first day of such period, (2) whose election or nomination to that board was approved by individuals referred to in clause (1) above constituting at the time of such election or nomination at least a majority of that board, or (3) whose election or nomination to that board was approved by individuals referred to in clauses (1) and (2) above constituting at the time of such election or nomination at least a majority of that board, or (iii) TransAct Technologies shall cease to directly own and control 100% of each class of the outstanding Equity Interests of each Loan Party;

(m) if (i) Bart Shuldman ceases to be employed as, and actively perform the duties of, the chief executive officer of each Loan Party, or (ii) Steven A. DeMartino ceases to be employed as, and actively perform the duties of, the president and chief financial officer of each Loan Party, in each case unless a successor is appointed within sixty (60) days after the termination of such individual's employment, and such successor is reasonably satisfactory to Lender;

(n) if any Lien purported to be created by any Loan Document shall cease to be a valid perfected first priority Lien (subject only to any priority accorded by law to Permitted Liens) on any material portion of the Collateral, or any Loan Party shall assert in writing that any Lien purported to be created by any Loan Document is not a valid perfected first priority lien (subject only to any priority accorded by law to Permitted Liens) on the assets or properties purported to be covered thereby;

(o) if any of the Loan Documents shall cease to be in full force and effect (other than as a result of the discharge thereof in accordance with the terms thereof or by written agreement of all parties thereto);

(p) [reserved];

(q) if (A) the outstanding balance of all Revolving Loans and the Letter of Credit Balance exceeds, at any time, the lesser of (x) the Maximum Revolving Facility Amount and Borrowers do not eliminate such excess in accordance with Section 1.7(a) and (y) the Borrowing Base, or (B) any of the Loan Limits for Revolving Loans are, at any time, exceeded; or

(r) (i) An ERISA Event occurs with respect to a Pension Plan or Multiemployer Plan which has resulted or could reasonably be expected to result in liability of any Loan Party or any ERISA Affiliate under Title IV of ERISA to the Pension Plan, Multiemployer Plan or the PBGC in an aggregate amount in excess of \$100,000, (ii) the existence of any Lien under Section 430(k) or Section 6321 of the Code or Section 303(k) or Section 4068 of ERISA on any assets of a Loan Party or any ERISA Affiliate, or (iii) a Loan Party or any ERISA Affiliate fails to pay when due, after the expiration of any applicable grace period, any installment payment with respect to its withdrawal liability under Section 4201 of ERISA under a Multiemployer Plan in an aggregate amount in excess of \$100,000; or

(s) If (i) any Loan Party is enjoined, restrained or in any way prevented by any Governmental Authority from conducting any material part of its business, (ii) any Loan Party suffers the loss, revocation or termination of any material license, permit, lease or agreement necessary to its business, or (iii) there is a cessation of any material part of any Loan Party's business for a material period of time.

7.2 Remedies with Respect to Lending Commitments/Acceleration/Etc. Upon the occurrence and during the continuance of an Event of Default, Lender may, in Lender's sole discretion upon written notice to Borrowers (a) terminate all or any portion of its commitment to lend to or extend credit to Borrowers under this Agreement and/or any other Loan Document, without prior notice to any Loan Party, and/or (b) demand payment in full of all or any portion of the Obligations (whether or not payable on demand prior to such Event of Default), together with the Early Payment/Termination Premium in the amount specified in the Fee Letter, and demand that the Letters of Credit be cash collateralized in the manner described in Section 1.7(c) and/or (c) take any and all other and further actions and avail itself of any and all rights and remedies available to Lender under this Agreement, any other Loan Document, under law and/or in equity. Notwithstanding the foregoing sentence, upon the occurrence of any Event of Default described in Section 7.1(g) or Section 7.1(h), without notice, demand or other action by Lender all of the Obligations (including without limitation the Early Payment/Termination Premium in the amount specified in the Fee Letter) shall immediately become due and payable whether or not payable on demand prior to such Event of Default.

7.3 Remedies with Respect to Collateral. Without limiting any rights or remedies Lender may have pursuant to this Agreement, the other Loan Documents, under applicable law or otherwise, upon the occurrence and during the continuance of an Event of Default:

(a) **Any and All Remedies.** Lender may take any and all actions and avail itself of any and all rights and remedies available to Lender under this Agreement, any other Loan Document, under law or in equity, and the rights and remedies herein and therein provided shall be cumulative and not exclusive of any rights or remedies provided by applicable law or otherwise.

(b) **Collections; Modifications of Terms.** Lender may but shall be under no obligation to (i) notify all appropriate parties that the Collateral, or any part thereof, has been assigned to Lender; (ii) demand, sue for, collect and give receipts for and take all necessary or desirable steps to collect any Collateral or Proceeds in its or any Loan Party's name, and apply any such collections against the Obligations as Lender may elect; (iii) take control of any Collateral and any cash and non-cash Proceeds of any Collateral; (iv) enforce, compromise, extend, renew settle or discharge any rights or benefits of

each Loan Party with respect to or in and to any Collateral, or deal with the Collateral as Lender may deem advisable; and (v) make any compromises, exchanges, substitutions or surrenders of Collateral Lender deems necessary or proper in its reasonable discretion, including extending the time of payment, permitting payment in installments, or otherwise modifying the terms or rights relating to any of the Collateral, all of which may be effected without notice to, consent of, or any other action of any Loan Party and without otherwise discharging or affecting the Obligations, the Collateral or the security interests granted to Lender under this Agreement or any other Loan Document.

(c) **Insurance.** Lender may file proofs of loss and claim with respect to any of the Collateral with the appropriate insurer, and may endorse in its own and each Loan Party's name any checks or drafts constituting Proceeds of insurance. Any Proceeds of insurance received by Lender may be applied by Lender against payment of all or any portion of the Obligations as Lender may elect in its reasonable discretion.

(d) **Possession and Assembly of Collateral.** Lender may take possession of the Collateral and/or without removal render each Loan Party's Equipment unusable. Upon Lender's request, each Loan Party shall assemble the Collateral and make it available to Lender at a place or places to be designated by Lender.

(e) **Set-off.** Lender may and without any notice to, consent of or any other action by any Loan Party (such notice, consent or other action being expressly waived), set-off or apply (i) any and all deposits (general or special, time or demand, provisional or final) at any time held by or for the account of Lender or any Affiliate of Lender, and/or (ii) any Indebtedness at any time owing by Lender or any Affiliate of Lender or any Participant in the Loans to or for the credit or the account of any Loan Party, to the repayment of the Obligations irrespective of whether any demand for payment of the Obligations has been made.

(f) **Disposition of Collateral.**

(i) *Sale, Lease, etc. of Collateral.* Lender may, without demand, advertising or notice, all of which each Loan Party hereby waives (except as the same may be required by the UCC or other applicable law and is not waivable under the UCC or such other applicable law), at any time or times in one or more public or private sales or other dispositions, for cash, on credit or otherwise, at such prices and upon such terms as determined by Lender (provided such price and terms are commercially reasonable within the meaning of the UCC to the extent such sale or other disposition is subject to the UCC requirements that such sale or other disposition must be commercially reasonable) (A) sell, lease, license or otherwise dispose of any and all Collateral, and/or (B) deliver and grant options to a third party to purchase, lease, license or otherwise dispose of any and all Collateral. Lender may sell, lease, license or otherwise dispose of any Collateral in its then-present condition or following any preparation or processing deemed necessary by Lender in its reasonable discretion. Lender may be the purchaser at any such public or private sale or other disposition of Collateral, and in such case Lender may make payment of all or any portion of the purchase price therefor by the application of all or any portion of the Obligations due to Lender to the purchase price payable in connection with such sale or disposition. Lender may, if it deems it reasonable, postpone or adjourn any sale or other disposition of any Collateral from time to time by an announcement at the time and place of the sale or disposition to be so postponed or adjourned without being required to give a new notice of sale or disposition; **provided, however**, that Lender shall provide the applicable Loan Party with written notice of the time and place of such postponed or adjourned sale or disposition. Each Loan Party hereby acknowledges and agrees that Lender's compliance with any requirements of applicable law in connection with a sale, lease, license or

other disposition of Collateral will not be considered to adversely affect the commercial reasonableness of any sale, lease, license or other disposition of such Collateral.

(ii) *Deficiency.* Each Loan Party shall remain liable for all amounts of the Obligations remaining unpaid as a result of any deficiency of the Proceeds of the sale, lease, license or other disposition of Collateral after such Proceeds are applied to the Obligations as provided in this Agreement.

(iii) *Warranties; Sales on Credit.* Lender may sell, lease, license or otherwise dispose of the Collateral without giving any warranties and may specifically disclaim any and all warranties, including but not limited to warranties of title, possession, merchantability and fitness. Each Loan Party hereby acknowledges and agrees that Lender's disclaimer of any and all warranties in connection with a sale, lease, license or other disposition of Collateral will not be considered to adversely affect the commercial reasonableness of any such disposition of the Collateral. If Lender sells, leases, licenses or otherwise disposes of any of the Collateral on credit, Borrowers will be credited only with payments actually made in cash by the recipient of such Collateral and received by Lender and applied to the Obligations. If any Person fails to pay for Collateral acquired pursuant to this Section 7.3(f) on credit, Lender may re-offer the Collateral for sale, lease, license or other disposition.

(g) Investment Property; Voting and Other Rights; Irrevocable Proxy.

(i) All rights of each Loan Party to exercise any of the voting and other consensual rights which it would otherwise be entitled to exercise in accordance with the terms hereof with respect to any Investment Property, and to receive any dividends, payments, and other distributions which it would otherwise be authorized to receive and retain in accordance with the terms hereof with respect to any Investment Property, shall immediately, at the election of Lender (without requiring any notice) cease, and all such rights shall thereupon become vested solely in Lender, and Lender (personally or through an agent) shall thereupon be solely authorized and empowered, without notice, to (A) transfer and register in its name, or in the name of its nominee, the whole or any part of the Investment Property, it being acknowledged by each Loan Party that any such transfer and registration may be effected by Lender through its irrevocable appointment as attorney-in-fact pursuant to Section 7.3(g) (ii) and Section 4.4 of this Agreement, (B) exchange certificates and/or instruments representing or evidencing Investment Property for certificates and/or instruments of smaller or larger denominations, (C) exercise the voting and all other rights as a holder with respect to all or any portion of the Investment Property (including, without limitation, all economic rights, all control rights, authority and powers, and all status rights of each Loan Party as a member or as a shareholder (as applicable) of the Issuer), (D) collect and receive all dividends and other payments and distributions made thereon, (E) notify the parties obligated on any Investment Property to make payment to Lender of any amounts due or to become due thereunder, (F) endorse instruments in the name of each Loan Party to allow collection of any Investment Property, (G) enforce collection of any of the Investment Property by suit or otherwise, and surrender, release, or exchange all or any part thereof, or compromise or renew for any period (whether or not longer than the original period) any liabilities of any nature of any Person with respect thereto, (H) consummate any sales of Investment Property or exercise any other rights as set forth in Section 7.3(f) hereof, (I) otherwise act with respect to the Investment Property as though Lender was the outright owner thereof, and (J) exercise any other rights or remedies Lender may have under the UCC, other applicable law, or otherwise.

(ii) EACH LOAN PARTY HEREBY IRREVOCABLY CONSTITUTES AND APPOINTS LENDER AS ITS PROXY AND ATTORNEY-IN-FACT FOR SUCH LOAN PARTY WITH RESPECT TO ALL OF EACH SUCH LOAN PARTY'S INVESTMENT PROPERTY WITH

THE RIGHT, DURING THE CONTINUANCE OF AN EVENT OF DEFAULT, WITHOUT NOTICE, TO TAKE ANY OF THE FOLLOWING ACTIONS: (A) TRANSFER AND REGISTER IN LENDER'S NAME, OR IN THE NAME OF ITS NOMINEE, THE WHOLE OR ANY PART OF THE INVESTMENT PROPERTY, (B) VOTE THE PLEDGED EQUITY, WITH FULL POWER OF SUBSTITUTION TO DO SO, (C) RECEIVE AND COLLECT ANY DIVIDEND OR ANY OTHER PAYMENT OR DISTRIBUTION IN RESPECT OF, OR IN EXCHANGE FOR, THE INVESTMENT PROPERTY OR ANY PORTION THEREOF, TO GIVE FULL DISCHARGE FOR THE SAME AND TO INDORSE ANY INSTRUMENT MADE PAYABLE TO ANY LOAN PARTY FOR THE SAME, (D) EXERCISE ALL OTHER RIGHTS, POWERS, PRIVILEGES, AND REMEDIES (INCLUDING ALL ECONOMIC RIGHTS, ALL CONTROL RIGHTS, AUTHORITY AND POWERS, AND ALL STATUS RIGHTS OF EACH LOAN PARTY AS A MEMBER OR AS A SHAREHOLDER (AS APPLICABLE) OF THE ISSUER) TO WHICH A HOLDER OF THE PLEDGED COLLATERAL WOULD BE ENTITLED (INCLUDING, WITH RESPECT TO THE PLEDGED EQUITY, GIVING OR WITHHOLDING WRITTEN CONSENTS OF MEMBERS OR SHAREHOLDERS, CALLING SPECIAL MEETINGS OF MEMBERS OR SHAREHOLDERS, AND VOTING AT SUCH MEETINGS), AND (E) TAKE ANY ACTION AND TO EXECUTE ANY INSTRUMENT WHICH LENDER MAY DEEM NECESSARY OR ADVISABLE TO ACCOMPLISH THE PURPOSES OF THIS AGREEMENT. THE APPOINTMENT OF LENDER AS PROXY AND ATTORNEY-IN-FACT IS COUPLED WITH AN INTEREST AND SHALL BE VALID AND IRREVOCABLE UNTIL (X) ALL OF THE OBLIGATIONS HAVE BEEN INDEFEASIBLY PAID IN FULL IN CASH IN ACCORDANCE WITH THE PROVISIONS OF THIS AGREEMENT AND THE OTHER LOAN DOCUMENTS, (Y) LENDER HAS NO FURTHER OBLIGATIONS UNDER THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, AND (Z) THE COMMITMENTS UNDER THIS AGREEMENT HAVE EXPIRED OR HAVE BEEN TERMINATED (IT BEING UNDERSTOOD AND AGREED THAT SUCH OBLIGATIONS WILL BE AUTOMATICALLY REINSTATED IF AT ANY TIME PAYMENT, IN WHOLE OR IN PART, OF ANY OF THE OBLIGATIONS IS RESCINDED OR MUST OTHERWISE BE RESTORED OR RETURNED BY LENDER FOR ANY REASON WHATSOEVER, INCLUDING, WITHOUT LIMITATION, AS A PREFERENCE, FRAUDULENT CONVEYANCE, OR OTHERWISE UNDER ANY BANKRUPTCY, INSOLVENCY, OR SIMILAR LAW, ALL AS THOUGH SUCH PAYMENT HAD NOT BEEN MADE; IT BEING FURTHER UNDERSTOOD THAT IN THE EVENT PAYMENT OF ALL OR ANY PART OF THE OBLIGATIONS IS RESCINDED OR MUST BE RESTORED OR RETURNED, ALL REASONABLE OUT-OF-POCKET COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, ALL REASONABLE ATTORNEYS' FEES AND DISBURSEMENTS) INCURRED BY LENDER IN DEFENDING AND ENFORCING SUCH REINSTATEMENT SHALL HEREBY BE DEEMED TO BE INCLUDED AS A PART OF THE OBLIGATIONS). SUCH APPOINTMENT OF LENDER AS PROXY AND AS ATTORNEY-IN-FACT SHALL BE VALID AND IRREVOCABLE AS PROVIDED HEREIN NOTWITHSTANDING ANY LIMITATIONS TO THE CONTRARY SET FORTH IN ANY ORGANIC DOCUMENTS OF ANY LOAN PARTY, ANY ISSUER, OR OTHERWISE.

(iii) In order to further effect the foregoing transfer of rights in favor of Lender, during the continuance of an Event of Default, each Loan Party hereby authorizes and instructs each Issuer of Investment Property pledged by such Loan Party to comply with any instruction received by such Issuer from Lender without any other or further instruction from such Loan Party, and each Loan Party acknowledges and agrees that each Issuer shall be fully protected in so complying, and to pay any dividends, distributions, or other payments with respect to any of the Investment Property directly to Lender.

(iv) Upon exercise of the proxy set forth herein, all prior proxies given by any Loan Party with respect to any of the Pledged Equity or other Investment Property, as applicable (other

than to Lender), are hereby revoked, and no subsequent proxies (other than to Lender) will be given with respect to any of the Pledged Equity or any of the other Investment Property, as applicable, unless Lender otherwise subsequently agrees in writing. Lender, as proxy, will be empowered and may exercise the irrevocable proxy to vote the Pledged Equity and/or the other Investment Property at any and all times during the existence of an Event of Default, including, without limitation, at any meeting of shareholders or members, as the case may be, however called, and at any adjournment thereof, or in any action by written consent, and may waive any notice otherwise required in connection therewith. To the fullest extent permitted by applicable law, Lender shall have no agency, fiduciary, or other implied duties to any Loan Party, any Issuer, any Loan Party, or any other Person when acting in its capacity as such proxy or attorney-in-fact. Each Loan Party hereby waives and releases any claims that it may otherwise have against Lender with respect to any breach, or alleged breach, of any such agency, fiduciary, or other duty.

(v) Any transfer to Lender or its nominee, or registration in the name of Lender or its nominee, of the whole or any part of the Investment Property shall be made solely for purposes of effectuating voting or other consensual rights with respect to the Investment Property in accordance with the terms of this Agreement and is not intended to effectuate any transfer of ownership of any of the Investment Property. Notwithstanding the delivery by Lender of any instruction to any Issuer or any exercise by Lender of an irrevocable proxy or otherwise, Lender shall not be deemed the owner of, or assume any obligations or any liabilities whatsoever of the owner or holder of, any Investment Property unless and until Lender expressly accepts such obligations in a duly authorized and executed writing and agrees in writing to become bound by the applicable Organic Documents or otherwise becomes the owner thereof under applicable law (including through a sale as described in Section 7.3(f) hereof). The execution and delivery of this Agreement shall not subject Lender to, or transfer or pass to Lender, or in any way affect or modify, the liability of any Loan Party under the Organic Documents of any Issuer or any related agreements, documents, or instruments or otherwise. In no event shall the execution and delivery of this Agreement by Lender, or the exercise by Lender of any rights hereunder or assigned hereby, constitute an assumption of any liability or obligation whatsoever of any Loan Party to, under, or in connection with any of the Organic Documents of any Issuer or any related agreements, documents, or instruments or otherwise.

(h) **Election of Remedies.** Lender shall have the right in Lender's sole discretion to determine which rights, security, Liens and/or remedies Lender may at any time pursue, foreclose upon, relinquish, subordinate, modify or take any other action with respect to, without in any way impairing, modifying or affecting any of Lender's other rights, security, Liens or remedies with respect to such Property, or any of Lender's rights or remedies under this Agreement or any other Loan Document.

(i) **Lender's Obligations.** Each Loan Party agrees that Lender shall not have any obligation to preserve rights to any Collateral against prior parties or to marshal any Collateral of any kind for the benefit of any other creditor of any Loan Party or any other Person. Lender shall not be responsible to any Loan Party or any other Person for loss or damage resulting from Lender's failure to enforce its Liens or collect any Collateral or Proceeds or any monies due or to become due under the Obligations or any other liability or obligation of any Loan Party to Lender.

(j) **Waiver of Rights by Loan Parties.** Except as otherwise expressly provided for in this Agreement or by non-waivable applicable law, each Loan Party waives: (i) presentment, demand and protest and notice of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by Lender on which any Loan Party may in any way be liable, and hereby ratifies and confirms whatever Lender may do in this regard, (ii) all rights to notice and a hearing prior to Lender's

taking possession or control of, or to Lender's replevy, attachment or levy upon, the Collateral or any bond or security which might be required by any court prior to allowing Lender to exercise any of its remedies and (iii) the benefit of all valuation, appraisal, marshalling and exemption laws.

8. LOAN GUARANTY.

8.1 Guaranty. Each Guarantor hereby agrees that it is jointly and severally liable for, and absolutely and unconditionally guarantees to Lender, the prompt payment when due, whether at stated maturity, upon acceleration or otherwise, and at all times thereafter, all of the Obligations and all costs and expenses, including all court costs and attorneys' and paralegals' fees (including allocated costs of in-house counsel and paralegals) and expenses paid or incurred by Lender in endeavoring to collect all or any part of the Obligations from, or in prosecuting any action against, any Borrower, any Guarantor of all or any part of the Obligations (and such costs and expenses paid or incurred shall be deemed to be included in the Obligations). Each Guarantor further agrees that the Obligations may be extended or renewed in whole or in part without notice to or further assent from it, and that it remains bound upon its guarantee notwithstanding any such extension or renewal. All terms of this Loan Guaranty apply to and may be enforced by or on behalf of any branch or Affiliate of Lender that extended any portion of the Obligations.

8.2 Guaranty of Payment. This Loan Guaranty is a guaranty of payment and not of collection. Each Guarantor waives any right to require Lender to sue or otherwise take action against any Borrower, any other Guarantor, or any other Person obligated for all or any part of the Obligations, or otherwise to enforce its payment against any Collateral securing all or any part of the Obligations.

8.3 No Discharge or Diminishment of Loan Guaranty.

(a) Except as otherwise expressly provided for herein, the obligations of each Guarantor hereunder are unconditional and absolute and not subject to any reduction, limitation, impairment or termination for any reason (other than the indefeasible payment in full in cash of all of the Obligations), including: (i) any claim of waiver, release, extension, renewal, settlement, surrender, alteration, or compromise of any of the Obligations, by operation of law or otherwise; (ii) any change in the corporate existence, structure or ownership of any Borrower or any other Guarantor; (iii) any insolvency, bankruptcy, reorganization or other similar proceeding affecting any Borrower or any other Guarantor, or their assets or any resulting release or discharge of any obligation of any Borrower or any other Guarantor; or (iv) the existence of any claim, setoff or other rights which any Guarantor may have at any time against any Borrower, any other Guarantor, Lender, or any other Person, whether in connection herewith or in any unrelated transactions.

(b) The obligations of each Guarantor hereunder are not subject to any defense or setoff, counterclaim, recoupment, or termination whatsoever by reason of the invalidity, illegality, or unenforceability of any of the Obligations or otherwise, or any provision of applicable law or regulation purporting to prohibit payment by any Borrower or any other Guarantor, of the Obligations or any part thereof.

(c) Further, the obligations of any Guarantor hereunder are not discharged or impaired or otherwise affected by: (i) the failure of Lender to assert any claim or demand or to enforce any remedy with respect to all or any part of the Obligations; (ii) any waiver or modification of or supplement to any provision of any agreement relating to the Obligations; (iii) any release, non-perfection, or invalidity of any indirect or direct security for all or any part of the Obligations or all or any part of any obligations of any Guarantor; (iv) any action or failure to act by Lender with respect to any Collateral; or (v) any

default, failure or delay, willful or otherwise, in the payment or performance of any of the Obligations, or any other circumstance, act, omission or delay that might in any manner or to any extent vary the risk of such Guarantor or that would otherwise operate as a discharge of any Guarantor as a matter of law or equity (other than the indefeasible payment in full in cash of all of the Obligations).

8.4 Defenses Waived. To the fullest extent permitted by applicable law, each Guarantor hereby waives any defense based on or arising out of any defense of any Guarantor or the unenforceability of all or any part of the Obligations from any cause, or the cessation from any cause of the liability of any Guarantor, other than the indefeasible payment in full in cash of all of the Obligations. Without limiting the generality of the foregoing, each Guarantor irrevocably waives acceptance hereof, presentment, demand, protest and, to the fullest extent permitted by law, any notice not provided for herein, as well as any requirement that at any time any action be taken by any Person against any Borrower, or any other Person. Each Guarantor confirms that it is not a surety under any state law and shall not raise any such law as a defense to its obligations hereunder. Lender may, at its election, foreclose on any Collateral held by it by one or more judicial or nonjudicial sales, accept an assignment of any such Collateral in lieu of foreclosure or otherwise act or fail to act with respect to any Collateral, compromise or adjust any part of the Obligations, make any other accommodation with any Borrower or any other Guarantor or exercise any other right or remedy available to it against any Borrower or any other Guarantor, without affecting or impairing in any way the liability of any Guarantor under this Loan Guaranty except to the extent the Obligations have been fully and indefeasibly paid in cash. To the fullest extent permitted by applicable law, each Guarantor waives any defense arising out of any such election even though that election may operate, pursuant to applicable law, to impair or extinguish any right of reimbursement or subrogation or other right or remedy of any Guarantor against any Borrower or any other Guarantor or any security.

8.5 Rights of Subrogation. No Guarantor will assert any right, claim or cause of action, including, without limitation, a claim of subrogation, contribution or indemnification that it has against any Borrower or any other Guarantor, or any Collateral, until the Termination Date.

8.6 Reinstatement; Stay of Acceleration. If at any time any payment of any portion of the Obligations is rescinded or must otherwise be restored or returned upon the insolvency, bankruptcy, or reorganization of any Borrower or any other Person, or otherwise, each Guarantor's obligations under this Loan Guaranty with respect to that payment shall be reinstated at such time as though the payment had not been made and whether or not Lender is in possession of this Loan Guaranty. If acceleration of the time for payment of any of the Obligations is stayed upon the insolvency, bankruptcy or reorganization of any Borrower, all such amounts otherwise subject to acceleration under the terms of any agreement relating to the Obligations shall nonetheless be payable by the Loan Parties forthwith on demand by Lender. This Section 8.6 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Obligations.

8.7 Information. Each Guarantor assumes all responsibility for being and keeping itself informed of Borrowers' financial condition and assets, and of all other circumstances bearing upon the risk of nonpayment of the Obligations and the nature, scope and extent of the risks that each Guarantor assumes and incurs under this Loan Guaranty, and agrees that Lender shall not have any duty to advise any Guarantor of information known to it regarding those circumstances or risks.

8.8 Termination. To the maximum extent permitted by law, each Guarantor hereby waives any right to revoke this Loan Guaranty as to future Obligations. If such a revocation is effective notwithstanding the foregoing waiver, each Guarantor acknowledges and agrees that (a) no such revocation shall be effective until written notice thereof has been received by Lender, (b) no such

revocation shall apply to any Obligations in existence on the date of receipt by Lender of such written notice (including any subsequent continuation, extension, or renewal thereof, or change in the interest rate, payment terms, or other terms and conditions thereof), (c) no such revocation shall apply to any Obligations made or created after such date to the extent made or created pursuant to a legally binding commitment of Lender, (d) no payment by any Borrower, any other Guarantor, or from any other source, prior to the date of Lender's receipt of written notice of such revocation shall reduce the maximum obligation of any Guarantor hereunder, and (e) any payment, by any Borrower or from any source other than a Guarantor which has made such a revocation, made subsequent to the date of such revocation, shall first be applied to that portion of the Obligations as to which the revocation is effective and which are not, therefore, guaranteed hereunder, and to the extent so applied shall not reduce the maximum obligation of any Guarantor hereunder.

8.9 Maximum Liability. The provisions of this Loan Guaranty are severable, and in any action or proceeding involving any federal or state corporate law or other law governing business entities, or any state, federal or foreign bankruptcy, insolvency, reorganization or other law affecting the rights of creditors generally, if the obligations of any Guarantor under this Loan Guaranty would otherwise be held or determined to be avoidable, invalid or unenforceable on account of the amount of such Guarantor's liability under this Loan Guaranty, then, notwithstanding any other provision of this Loan Guaranty to the contrary, the amount of such liability shall, without any further action by the Loan Parties or Lender, be automatically limited and reduced to the highest amount that is valid and enforceable as determined in such action or proceeding (such highest amount determined hereunder being the relevant Guarantor's "**Maximum Liability**"). This Section with respect to the Maximum Liability of each Guarantor is intended solely to preserve the rights of Lender to the maximum extent not subject to avoidance under applicable law, and no Guarantor nor any other Person shall have any right or claim under this Section with respect to such Maximum Liability, except to the extent necessary so that the obligations of any Guarantor hereunder shall not be rendered voidable under applicable law. Each Guarantor agrees that the Obligations may at any time and from time to time exceed the Maximum Liability of each Guarantor without impairing this Loan Guaranty or affecting the rights and remedies of Lender hereunder, **provided**, that nothing in this sentence shall be construed to increase any Guarantor's obligations hereunder beyond its Maximum Liability.

8.10 Contribution. In the event any Guarantor shall make any payment or payments under this Loan Guaranty or shall suffer any loss as a result of any realization upon any Collateral granted by it to secure its obligations under this Loan Guaranty (such Guarantor a "**Paying Guarantor**"), each other Guarantor (each a "**Non-Paying Guarantor**") shall contribute to such Paying Guarantor an amount equal to such Non-Paying Guarantor's "Applicable Percentage" of such payment or payments made, or losses suffered, by such Paying Guarantor. For purposes of this Section 8.10, each Non-Paying Guarantor's "Applicable Percentage" with respect to any such payment or loss by a Paying Guarantor shall be determined as of the date on which such payment or loss was made by reference to the ratio of (a) such Non-Paying Guarantor's Maximum Liability as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder) or, if such Non-Paying Guarantor's Maximum Liability has not been determined, the aggregate amount of all monies received by such Non-Paying Guarantor from Borrowers after the date hereof (whether by loan, capital infusion or by other means) to (b) the aggregate Maximum Liability of all Loan Parties hereunder (including such Paying Guarantor) as of such date (without giving effect to any right to receive, or obligation to make, any contribution hereunder), or to the extent that a Maximum Liability has not been determined for any Guarantor, the aggregate amount of all monies received by such Loan Parties from Borrowers after the date hereof (whether by loan, capital infusion or by other means). Nothing in this provision shall affect any Guarantor's several liability for the entire amount of the Obligations (up to such Guarantor's Maximum Liability). Each of the Loan Parties covenants and agrees that its right to receive any contribution under

this Loan Guaranty from a Non-Paying Guarantor shall be subordinate and junior in right of payment to the payment in full in cash of all of the Obligations. This provision is for the benefit of Lender and the Loan Parties and may be enforced by any one, or more, or all of them in accordance with the terms hereof.

8.11 Liability Cumulative. The liability of each Guarantor under this Section 8 is in addition to and shall be cumulative with all liabilities of each Guarantor to Lender under this Agreement and the other Loan Documents to which such Guarantor is a party or in respect of any obligations or liabilities of the other Loan Parties, without any limitation as to amount, unless the instrument or agreement evidencing or creating such other liability specifically provides to the contrary.

9. PAYMENTS FREE OF TAXES; OBLIGATION TO WITHHOLD; PAYMENTS ON ACCOUNT OF TAXES.

(a) Any and all payments by or on account of any obligation of the Loan Parties hereunder or under any other Loan Document shall to the extent permitted by applicable laws be made free and clear of and without reduction or withholding for any Taxes. If, however, applicable laws require the Loan Parties to withhold or deduct any Tax, such Tax shall be withheld or deducted in accordance with such laws as the case may be, upon the basis of the information and documentation to be delivered pursuant to clause (e) below.

(b) If any Loan Party shall be required by applicable law to withhold or deduct any Taxes from any payment, then (i) such Loan Party shall withhold or make such deductions as are required based upon the information and documentation it has received pursuant to clause (e) below, (ii) such Loan Party shall timely pay the full amount withheld or deducted to the relevant Governmental Authority in accordance with the applicable law, and (iii) to the extent that the withholding or deduction is made on account of Indemnified Taxes, the sum payable by the Loan Parties shall be increased as necessary so that after any required withholding or the making of all required deductions (including deductions applicable to additional sums payable under this Section) the Recipient receives an amount equal to the sum it would have received had no such withholding or deduction been made. Upon request by Lender or other Recipient, Borrowers shall deliver to Lender or such other Recipient, as the case may be, the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment of Indemnified Taxes, a copy of any return required by applicable law to report such payment or other evidence of such payment reasonably satisfactory to Lender or such other Recipient, as the case may be.

(c) Without limiting the provisions of subsections (a) and (b) above, the Loan Parties shall timely pay any Other Taxes to the relevant Governmental Authority in accordance with applicable law.

(d) Without limiting the provisions of subsections (a) through (c) above, each Loan Party shall, and does hereby, on a joint and several basis indemnify Lender and each other Recipient (and their respective directors, officers, employees, affiliates and agents) and shall make payment in respect thereof within ten (10) days after demand therefor, for the full amount of any Indemnified Taxes and Other Taxes (including Indemnified Taxes and Other Taxes imposed or asserted on or attributable to amounts payable under this Section) paid or incurred by Lender or any other Recipient on account of, or in connection with any Loan Document or a breach by a Loan Party thereof, and any penalties, interest and related expenses and losses arising therefrom or with respect thereto (including the fees, charges and disbursements of any counsel or other tax advisor for Lender or any other Recipient (or their respective directors, officers, employees, affiliates, and agents)), whether or not such Indemnified Taxes or Other

Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. A certificate as to the amount of any such payment or liability delivered to Borrowers shall be conclusive absent manifest error. Notwithstanding any provision in this Agreement to the contrary, this Section 9 shall remain operative even after the Termination Date and shall survive the payment in full of all of the Loans.

(e) Lender shall deliver to Borrowers and each Participant shall deliver to Lender granting the participation, at the time or times prescribed by applicable laws, such properly completed and executed documentation prescribed by applicable laws or by the taxing authorities of any jurisdiction and such other reasonably requested information as will permit Borrowers or Lender granting a participation, as the case may be, to determine (i) whether or not payments made hereunder or under any other Loan Document are subject to Taxes, (ii) if applicable, the required rate of withholding or deduction, and (iii) Lender's or such Participant's entitlement to any available exemption from, or reduction of, applicable Taxes in respect of all payments to be made to such Recipient by the Loan Parties pursuant to this Agreement or otherwise to establish such Recipient's status for withholding tax purposes in the applicable jurisdiction; **provided**, that each Recipient shall only be required to deliver such documentation as it may legally provide.

Without limiting the generality of the foregoing, if a Borrower is resident for tax purposes in the United States:

(i) Lender (or Participant) that is a "United States person" within the meaning of Section 7701(a)(30) of the Code shall deliver to Borrowers (or Lender granting a participation as applicable) an executed original of Internal Revenue Service Form W-9 or such other documentation or information prescribed by applicable law or reasonably requested by Borrowers (or Lender granting a participation) as will enable Borrowers (or Lender granting a participation) as the case may be, to determine whether or not such Lender (or Participant) is subject to backup withholding or information reporting requirements under the Code; and

(ii) Lender (or Participant) that is not a "United States person" within the meaning of Section 7701(a)(30) of the Code (a "**Non-U.S. Recipient**") shall deliver to Borrowers (and Lender granting a participation in case the Non-U.S. Recipient is a Participant) and Lender on or prior to the date on which such Non-U.S. Recipient becomes a party to this Agreement or a Participant (and from time to time thereafter upon the reasonable request of Borrowers or Lender granting the participation but only if such Non-U.S. Recipient is legally entitled to do so), whichever of the following is applicable: (A) executed originals of Internal Revenue Service Form W-8BEN claiming eligibility for benefits of an income tax treaty to which the United States is a party; (B) executed originals of Internal Revenue Service Form W-8ECI; (C) executed originals of Internal Revenue Service Form W-8IMY and all required supporting documentation; (D) each Non-U.S. Recipient claiming the benefits of the exemption for portfolio interest under section 881(c) of the Code, shall provide (x) a certificate to the effect that such Non-U.S. Recipient is not (I) a "bank" within the meaning of section 881(c)(3)(A) of the Code, (II) a "10 percent shareholder" of a Borrower within the meaning of section 881(c)(3)(B) of the Code, or (III) a "controlled foreign corporation" described in section 881(c)(3)(C) of the Code and (y) executed originals of Internal Revenue Service Form W-8BEN; and/or (E) executed originals of any other form prescribed by applicable law (including FATCA) as a basis for claiming exemption from or a reduction in United States Federal withholding tax together with such supplementary documentation as may be prescribed by applicable law to permit Borrowers or any Lender granting a participation, to determine the withholding or deduction required to be made. Each Non-U.S. Recipient shall promptly notify Borrowers (or any Lender granting a participation if the Non-U.S. Recipient is a Participant) of any change in circumstances which would modify or render invalid any claimed exemption or reduction.

10. GENERAL PROVISIONS.

10.1 Notices.

(a) Notice by Approved Electronic Communications.

Lender and each of its Affiliates is authorized to transmit, post or otherwise make or communicate, in its sole discretion (but shall not be required to do so), by Approved Electronic Communications in connection with this Agreement or any other Loan Document and the transactions contemplated therein. Lender is hereby authorized to establish procedures to provide access to and to make available or deliver, or to accept, notices, documents and similar items by posting to Passport 6.0. Each of the Loan Parties and Lender hereby acknowledges and agrees that the use of Passport 6.0 and other Approved Electronic Communications is not necessarily secure and that there are risks associated with such use, including risks of interception, disclosure and abuse and each indicates it assumes and accepts such risks by hereby authorizing Lender and each of its Affiliates to transmit Approved Electronic Communications. Passport 6.0 and all Approved Electronic Communications shall be provided "as is" and "as available". None of Lender or any of its Affiliates or related persons warrants the accuracy, adequacy or completeness of Passport 6.0 or any other electronic platform or electronic transmission and disclaims all liability for errors or omissions therein. No warranty of any kind is made by Lender or any of its Affiliates or related persons in connection with Passport 6.0 or any other electronic platform or electronic transmission, including any warranty of merchantability, fitness for a particular purpose, non-infringement of third-party rights or freedom from viruses or other code defects. Each Borrower and each other Loan Party executing this Agreement agrees that Lender has no responsibility for maintaining or providing any equipment, software, services or any testing required in connection with Passport 6.0, any Approved Electronic Communication or otherwise required for Passport 6.0 or any Approved Electronic Communication.

Prior to the Closing Date, Borrowing Agent shall deliver to Lender a complete and executed Client User Form regarding Borrowing Agent's use of Passport 6.0 in the form of Exhibit C annexed hereto.

No Approved Electronic Communications shall be denied legal effect merely because it is made electronically. Approved Electronic Communications that are not readily capable of bearing either a signature or a reproduction of a signature may be signed, and shall be deemed signed, by attaching to, or logically associating with such Approved Electronic Communication, an E-Signature, upon which Lender and the Loan Parties may rely and assume the authenticity thereof. Each Approved Electronic Communication containing a signature, a reproduction of a signature or an E-Signature shall, for all intents and purposes, have the same effect and weight as a signed paper original. Each E-Signature shall be deemed sufficient to satisfy any requirement for a "signature" and each Approved Electronic Communication shall be deemed sufficient to satisfy any requirement for a "writing", in each case including pursuant to this Agreement, any other Loan Document, the Uniform Commercial Code, the Federal Uniform Electronic Transactions Act, the Electronic Signatures in Global and National Commerce Act and any substantive or procedural law governing such subject matter. Each party or beneficiary hereto agrees not to contest the validity or enforceability of an Approved Electronic Communication or E-Signature under the provisions of any applicable law requiring certain documents to be in writing or signed; *provided*, that nothing herein shall limit such party's or beneficiary's right to contest whether an Approved Electronic Communication or E-Signature has been altered after transmission.

(b) All Other Notices.

All notices, requests, demands and other communications under or in respect of this Agreement or any transactions hereunder, other than those approved for or required to be delivered by Approved Electronic Communications (including via Passport 6.0 or otherwise pursuant to Section 10.1(a)), shall be in writing and shall be personally delivered or mailed (by prepaid registered or certified mail, return receipt requested), sent by prepaid recognized overnight courier service, or by email to the applicable party at its address or email address indicated below,

If to Lender:

Siena Lending Group LLC
9 W Broad Street, 5th Floor
Stamford, Connecticut 06902
Attention: Steve Sanicola
Email: ssanicola@sienalending.com

with a copy to:

Otterbourg P.C.
230 Park Avenue
New York, New York 10169
Attention: Thomas P. Duignan, Esq.
Email: tduignan@otterbourg.com

If to Borrowers or any other Loan Party:

TransAct Technologies Incorporated
2319 Whitney Avenue, Suite 3B
Hamden, Connecticut 06518
Attention: Steven A. DeMartino, President and Chief Financial Officer
Email: sdemartino@transact-tech.com

with a copy to:

Day Pitney LLP
242 Trumbull Street
Hartford, Connecticut 06103
Attention: Richard J. Wasserman
Email: rjwasserman@daypitney.com

or, as to each party, at such other address as shall be designated by such party in a written notice to the other party delivered as aforesaid. All such notices, requests, demands and other communications shall be deemed given (i) when personally delivered, (ii) three (3) Business Days after being deposited in the mails with postage prepaid (by registered or certified mail, return receipt requested), (iii) one (1) Business Day after being delivered to the overnight courier service, if prepaid and sent overnight delivery, addressed as aforesaid and with all charges prepaid or billed to the account of the sender, or (iv) when sent by email transmission to an email address designated by such addressee and the sender receives a confirmation of transmission.

10.2 Severability. If any provision of this Agreement or any other Loan Document is held invalid or unenforceable, either in its entirety or by virtue of its scope or application to given

circumstances, such provision shall thereupon be deemed modified only to the extent necessary to render same valid, or not applicable to given circumstances, or excised from this Agreement or such other Loan Document, as the situation may require, and this Agreement and the other Loan Documents shall be construed and enforced as if such provision had been included herein as so modified in scope or application, or had not been included herein or therein, as the case may be.

10.3 Integration. This Agreement and the other Loan Documents represent the final, entire and complete agreement between each Loan Party party hereto and thereto and Lender and supersede all prior and contemporaneous negotiations, oral representations and agreements, all of which are merged and integrated into this Agreement. THERE ARE NO ORAL UNDERSTANDINGS, REPRESENTATIONS OR AGREEMENTS BETWEEN THE PARTIES THAT ARE NOT SET FORTH IN THIS AGREEMENT OR THE OTHER LOAN DOCUMENTS.

10.4 Waivers. The failure of Lender at any time or times to require any Loan Party to strictly comply with any of the provisions of this Agreement or any other Loan Documents shall not waive or diminish any right of Lender later to demand and receive strict compliance therewith. Any waiver of any default shall not waive or affect any other default, whether prior or subsequent, and whether or not similar. None of the provisions of this Agreement or any other Loan Document shall be deemed to have been waived by any act or knowledge of Lender or its agents or employees, but only by a specific written waiver signed by an authorized officer of Lender and delivered to Borrowers. Once an Event of Default shall have occurred, it shall be deemed to continue to exist and not be cured or waived unless specifically cured pursuant to the terms of this Agreement or waived in writing by an authorized officer of Lender and delivered to Borrowers. Each Loan Party waives demand, protest, notice of protest and notice of default or dishonor, notice of payment and nonpayment, release, compromise, settlement, extension or renewal of any commercial paper, Instrument, Account, General Intangible, Document, Chattel Paper, Investment Property or guaranty at any time held by Lender on which such Loan Party is or may in any way be liable, and notice of any action taken by Lender, unless expressly required by this Agreement, and notice of acceptance hereof.

10.5 Amendment. This Agreement may not be amended or modified except in a writing executed by Borrowers, the other Loan Parties party hereto (to the extent such amendment is directly adverse to such Loan Party), and Lender.

10.6 Time of Essence. Time is of the essence in the performance by each Loan Party of each and every obligation under this Agreement and the other Loan Documents.

10.7 Expenses, Fee and Costs Reimbursement. Borrowers hereby agree to promptly and jointly and severally pay (a) all fees, costs and expenses of Lender (including Lender's underwriting fees) and (b) all out of pocket fees, costs and expenses of legal counsel to, and appraisers, accountants, consultants and other professionals and advisors retained by or on behalf of, Lender, all of which shall be reasonable, prior to the occurrence and continuance of an Event of Default, in connection with: (i) all loan proposals and commitments pertaining to the transactions contemplated hereby (whether or not such transactions are consummated), (ii) the examination, review, due diligence investigation, documentation, negotiation, and closing of the transactions contemplated by the Loan Documents (whether or not such transactions are consummated), (iii) the creation, perfection and maintenance of Liens pursuant to the Loan Documents, (iv) the performance by Lender of its rights and remedies under the Loan Documents, (v) the administration of the Loans (including usual and customary fees for wire transfers and other transfers or payments received by Lender on account of any of the Obligations) and Loan Documents, (vi) any amendments, modifications, consents and waivers to and/or under any and all Loan Documents (whether or not such amendments, modifications, consents or waivers are consummated), (vii) any

periodic public record searches conducted by or at the request of Lender (including, title investigations and public records searches), pending litigation and tax lien searches and searches of applicable corporate, limited liability company, partnership and related records concerning the continued existence, organization and good standing of certain Persons), (viii) protecting, storing, insuring, handling, maintaining, auditing, examining, valuing or selling any Collateral, (ix) any litigation, dispute, suit or proceeding relating to any Loan Document, and (x) any workout, collection, bankruptcy, insolvency and other enforcement proceedings under any and all of the Loan Documents (it being agreed that such costs and expenses may include the costs and expenses of workout consultants, investment bankers, financial consultants, appraisers, valuation firms and other professionals and advisors retained by or on behalf of Lender), and (c) without limitation of the preceding clauses (a) and (b), all out of pocket costs and expenses of Lender in connection with Lender's reservation of funds in anticipation of the funding of the initial Loans to be made hereunder on the Closing Date. Any fees, costs and expenses owing by Borrowers or any other Loan Party hereunder shall be due and payable within three (3) Business Days after written demand therefor.

10.8 Benefit of Agreement; Assignability; Servicer.

(a) The provisions of this Agreement shall be binding upon and inure to the benefit of the respective successors, assigns, heirs, beneficiaries and representatives of Borrowers, each other Loan Party party hereto and Lender; **provided**, that neither any Borrower nor any other Loan Party may assign or transfer any of its rights under this Agreement without the prior written consent of Lender, and any prohibited assignment shall be void. No consent by Lender to any assignment shall release any Loan Party from its liability for any of the Obligations. Lender shall have the right to assign all or any of its rights and obligations under the Loan Documents to one or more other Persons, and each Loan Party agrees, to the extent applicable, to execute any agreements, instruments and documents requested by Lender in connection with any such assignments. Notwithstanding any provision of this Agreement or any other Loan Document to the contrary, Lender may at any time pledge or grant a security interest in all or any portion of its rights under this Agreement and the other Loan Documents to secure obligations of Lender, including any pledge or grant to secure obligations to a Federal Reserve Bank.

(b) In the event of any assignment by Lender of its rights and obligations under the Loan Documents to an Affiliate of Lender (an "**Affiliate Assignee**") and at all times thereafter, Servicer shall be deemed to act as servicer and agent for the applicable Affiliate Assignee, and Servicer will retain the sole right to enforce this Agreement and the other Loan Documents, to approve any amendment, restatement, modification, supplement or waiver of any provision of this Agreement or any other Loan Document, and to receive or collect all payments with respect to the Obligations. By acceptance of any such assignment, each Affiliate Assignee irrevocably appoints Servicer as servicer and agent for the purposes of servicing and managing the Loans, and authorizes Servicer to take such actions and to exercise such powers on behalf of such Affiliate Assignee as are reasonably necessary or advisable and incidental thereto, including the sole and exclusive authority to: (i) possess, keep and maintain books and records with respect to the Loans, (ii) receive, process, account for, deliver or arrange for the delivery of, all Collections in accordance with the terms of this Agreement; (iii) monitor and pursue payment of all Obligations; (iv) monitor, manage and perfect security interests in all Collateral for the Obligations, including without limitation, to make the determination of whether any Accounts and Inventory constitute Eligible Accounts or Eligible Inventory, as applicable, or whether to impose, modify or release any Reserve; (v) exercise any rights or remedies with respect to the Obligations and the Collateral available under law or in equity, including, without limitation, any non-judicial and judicial enforcement, liquidation and collection of the Obligations, and the engagement of attorneys and other professionals for such purpose; and (vi) take all lawful actions and procedures required to (A) cause Borrowers to promptly and diligently comply with Borrowers' obligations under the Loan Documents;

(B) maximize the value of the Collateral; and (C) collect and enforce payment of all Obligations. Each Affiliate Assignee agrees that any action taken by Servicer in accordance with the terms of this Agreement or the other Loan Documents, and the exercise by Servicer of its powers set forth herein or therein, together with such other powers that are reasonably incidental thereto, shall be authorized by and binding upon all of the Affiliate Assignees. Servicer's exercise of its discretion in connection with the foregoing matters, if exercised in good faith, shall exonerate Servicer from liability to any Affiliate Assignee and any other Person for any error in judgment. Servicer may perform any and all of its duties and exercise its rights and powers by or through any one or more agents appointed by Servicer. Servicer shall not be liable to any Affiliate Assignee for any action taken or omitted to be taken under the Loan Documents, except for losses directly and solely caused by the Servicer's gross negligence or willful misconduct, as finally determined by a court of competent jurisdiction, and Servicer does not assume any responsibility for any failure or delay in performance or any breach by any Loan Party or any other Person of any obligations under the Loan Documents. In the event that a petition seeking relief under Title 11 of the United States Code or any other Federal, state or foreign bankruptcy, insolvency, liquidation or similar law is filed by or against any Loan Party, or any other Person obligated under any Loan Document, Servicer is authorized, to the fullest extent permitted by applicable law, to act on behalf of the Affiliate Assignees in connection with such proceeding, including, without limitation, to file proofs of claim on behalf of itself and the Affiliate Assignees in such proceeding for the total amount of obligations owed by Loan Parties, or any of them, or any other Person under any Loan Document.

(c) Servicer may resign on sixty (60) days written notice to Lender and Borrowing Agent and upon such resignation, Lender will promptly designate a successor Servicer reasonably satisfactory to Borrowers (**provided** that no such approval by Borrowers shall be required (i) in any case where the successor Servicer is one of Lender or an Affiliate or Subsidiary of Lender or (ii) after the occurrence and during the continuance of any Event of Default). Any such successor Servicer shall succeed to the rights, powers and duties of Servicer, and shall in particular succeed to all of Servicer's right, title and interest in and to all of the Liens in the Collateral securing the Obligations created hereunder or any other Loan Document (including all account control agreements), and the term "Servicer" shall mean such successor Servicer effective upon its appointment, and the former Servicer's rights, powers and duties as Servicer shall be terminated, without any other or further act or deed on the part of such former Servicer. However, notwithstanding the foregoing, if at the time of the effectiveness of the new Servicer's appointment, any further actions need to be taken in order to provide for the legally binding and valid transfer of any Liens in the Collateral from former Servicer to new Servicer and/or for the perfection of any Liens in the Collateral as held by new Servicer or it is otherwise not then possible for new Servicer to become the holder of a fully valid, enforceable and perfected Lien as to any of the Collateral, former Servicer shall continue to hold such Liens solely as Servicer for perfection of such Liens on behalf of new Servicer until such time as new Servicer can obtain a fully valid, enforceable and perfected Lien on all Collateral, provided that Servicer shall not be required to or have any liability or responsibility to take any further actions after such date as such Servicer for perfection to continue the perfection of any such Liens (other than to forego from taking any affirmative action to release any such Liens). After any Servicer's resignation as Servicer, the provisions of this Section 10.8, and any indemnification rights under this Agreement, including without limitation, rights arising under Section 10.7 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Servicer under this Agreement (and in the event resigning Servicer continues to hold any Liens pursuant to the provisions of the immediately preceding sentence, the provisions of this Section 10.8 and any indemnification rights under this Agreement, including without limitation, rights arising under Article 6 hereof, shall inure to its benefit as to any actions taken or omitted to be taken by it in connection with such Liens).

10.9 Recordation of Assignment. In respect of any assignment of all or any portion of any Lender's interest in this Agreement and/or any other Loan Documents at any time and from time to time, the following provisions shall be applicable:

(a) Borrowers, or any agent appointed by Borrowers, shall maintain a register (the "**Register**") in which there shall be recorded the name and address of each Person holding any Loans or any commitment to lend hereunder, and the principal amount and stated interest payable to such Person hereunder or committed by such Person under such Person's lending commitment. Borrowers hereby irrevocably appoint Lender (and/or any subsequent Lender appointed by Lender then maintaining the Register) as Borrowers' non-fiduciary agent for the purpose of maintaining the Register.

(b) In connection with any negotiation, transfer or assignment as aforesaid, the transferor/assignor shall deliver to Lender then maintaining the Register an assignment and assumption agreement executed by the transferor/assignor and the transferee/assignee, setting forth the specifics of the subject transaction, including but not limited to the amount and nature of Obligations and/or lending commitments being transferred or assigned (and being assumed, as applicable), and the proposed effective date of such transfer or assignment and the related assumption (if applicable).

(c) Subject to receipt of any required tax forms reasonably required by Lender, such Person shall record the subject transfer, assignment and assumption in the Register. Anything contained in this Agreement or other Loan Document to the contrary notwithstanding, no negotiation, transfer or assignment shall be effective until it is recorded in the Register pursuant to this Section 10.9(c). The entries in the Register shall be conclusive and binding for all purposes, absent manifest error; and each Borrower and each Lender shall treat each Person whose name is recorded in the Register as a Lender hereunder for all purposes of this Agreement and the other Loan Documents. The Register shall be available for inspection by each Borrower and each Lender at any reasonable time and from time to time upon reasonable prior notice.

10.10 Participations. Anything in this Agreement or any other Loan Document to the contrary notwithstanding, Lender may, at any time and from time to time, without in any manner affecting or impairing the validity of any Obligations, sell to one or more Persons participating interests in its Loans, commitments and/or other interests hereunder and/or under any other Loan Document (any such Person, a "**Participant**"). In the event of a sale by Lender of a participating interest to a Participant, (a) such Lender's obligations hereunder and under the other Loan Documents shall remain unchanged for all purposes, (b) Borrowers and Lender shall continue to deal solely and directly with each other in connection with Lender's rights and obligations hereunder and under the other Loan Documents and (c) all amounts payable by Borrowers shall be determined as if Lender had not sold such participation and shall be paid directly to Lender; **provided, however**, a Participant shall be entitled to the benefits of Section 9 as if it were a Lender if Borrowers are notified of the Participation and the Participant complies with Section 9(e). Borrowers agree that if amounts outstanding under this Agreement or any other Loan Document are due and payable (as a result of acceleration or otherwise), each Participant shall be deemed to have the right of set-off in respect of its participating interest in amounts owing under this Agreement and the other Loan Documents to the same extent as if the amount of its participating interest were owing directly to it as a Lender under this Agreement; **provided**, that such right of set-off shall not be exercised without the prior written consent of Lender and shall be subject to the obligation of each Participant to share with Lender its share thereof. Borrowers also agree that each Participant shall be entitled to the benefits of Section 10.9 as if it were Lender. Notwithstanding the granting of any such participating interests: (x) Borrowers shall look solely to Lender for all purposes of this Agreement, the Loan Documents and the transactions contemplated hereby, (y) Borrowers shall at all times have the right to rely upon any amendments, waivers or consents signed by Lender as being binding upon all of the

Participants, and (z) all communications in respect of this Agreement and such transactions shall remain solely between Borrowers and Lender (exclusive of Participants) hereunder. Lender granting a participation hereunder shall maintain, as a non-fiduciary agent of Borrowers, a register as to the participations granted and transferred under this Section containing the same information specified in Section 10.9 on the Register as if each Participant were a Lender to the extent required to cause the Loans to be in registered form for the purposes of Sections 163(f), 165(j), 871, 881, and 4701 of the Code.

10.11 Headings; Construction. Section and subsection headings are used in this Agreement only for convenience and do not affect the meanings of the provisions that they precede.

10.12 USA PATRIOT Act Notification. Lender hereby notifies the Loan Parties that pursuant to the requirements of the USA PATRIOT Act, it may be required to obtain, verify and record certain information and documentation that identifies such Person, which information may include the name and address of each such Person and such other information that will allow Lender to identify such Persons in accordance with the USA PATRIOT Act.

10.13 Counterparts; Email Signatures. This Agreement may be executed in any number of counterparts, all of which shall constitute one and the same agreement. This Agreement may be executed by signatures delivered by electronic mail, each of which shall be fully binding on the signing party.

10.14 GOVERNING LAW. THIS AGREEMENT, ALONG WITH ALL OTHER LOAN DOCUMENTS (UNLESS EXPRESSLY PROVIDED OTHERWISE IN SUCH OTHER LOAN DOCUMENT) SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAW OF THE STATE OF NEW YORK APPLICABLE TO CONTRACTS MADE AND TO BE PERFORMED THEREIN WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES (EXCEPT SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATION LAW). FURTHER, THE LAW OF THE STATE OF NEW YORK SHALL APPLY TO ALL DISPUTES OR CONTROVERSIES ARISING OUT OF OR CONNECTED TO OR WITH THIS AGREEMENT AND ALL SUCH OTHER LOAN DOCUMENTS WITHOUT REGARD TO CONFLICT OF LAW PRINCIPLES (EXCEPT SECTIONS 5-1401 AND 5-1402 OF THE NEW YORK GENERAL OBLIGATION LAW).

10.15 CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL; CONSENT TO SERVICE OF PROCESS. ANY LEGAL ACTION, SUIT OR PROCEEDING WITH RESPECT TO THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT SHALL BE BROUGHT EXCLUSIVELY IN THE COURTS OF THE STATE OF NEW YORK IN THE COUNTY OF NEW YORK OR IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF NEW YORK, PROVIDED, THAT ANY SUIT SEEKING ENFORCEMENT AGAINST ANY COLLATERAL OR OTHER PROPERTY MAY BE BROUGHT, AT LENDER'S OPTION, IN THE COURTS OF ANY JURISDICTION WHERE LENDER ELECTS TO BRING SUCH ACTION OR WHERE SUCH COLLATERAL OR OTHER PROPERTY MAY BE FOUND, AND EACH BORROWER AND EACH OTHER LOAN PARTY HEREBY ACCEPTS FOR ITSELF AND IN RESPECT OF ITS PROPERTY, GENERALLY AND UNCONDITIONALLY, THE JURISDICTION OF THE AFOREMENTIONED COURTS. EACH BORROWER AND EACH OTHER LOAN PARTY HEREBY EXPRESSLY AND IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY OBJECTION, INCLUDING, WITHOUT LIMITATION, ANY OBJECTION TO THE LAYING OF VENUE OR BASED ON THE GROUNDS OF FORUM NON CONVENIENS, OR BASED ON UPON 28 U.S.C. § 1404, WHICH IT MAY NOW OR HEREAFTER HAVE TO THE BRINGING AND ADJUDICATION OF ANY SUCH ACTION, SUIT OR PROCEEDING IN ANY OF THE

AFOREMENTIONED COURTS AND TO THE GRANTING OF SUCH LEGAL OR EQUITABLE RELIEF AS IS DEEMED APPROPRIATE BY THE COURT. EACH BORROWER AND EACH OTHER LOAN PARTY HEREBY WAIVES ANY RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM CONCERNING ANY RIGHTS UNDER THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT, OR UNDER ANY AMENDMENT, WAIVER, AMENDMENT, INSTRUMENT, DOCUMENT OR OTHER AGREEMENT DELIVERED OR WHICH IN THE FUTURE MAY BE DELIVERED IN CONNECTION HERewith OR THEREWITH, OR ARISING FROM ANY FINANCING RELATIONSHIP EXISTING IN CONNECTION WITH THIS AGREEMENT OR ANY OTHER LOAN DOCUMENT OR THE OTHER TRANSACTION DOCUMENTS, AND AGREES THAT ANY SUCH ACTION, PROCEEDING OR COUNTERCLAIM SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. EACH BORROWER AND EACH OTHER LOAN PARTY HEREBY WAIVES PERSONAL SERVICE OF ANY AND ALL PROCESS UPON ANY BORROWER OR ANY OTHER LOAN PARTY AND CONSENTS THAT ALL SUCH SERVICE OF PROCESS MAY BE MADE BY CERTIFIED MAIL (RETURN RECEIPT REQUESTED) DIRECTED TO BORROWERS' NOTICE ADDRESS (ON BEHALF OF BORROWERS OR SUCH LOAN PARTY) SET FORTH IN SECTION 10.1 HEREOF AND SERVICE SO MADE SHALL BE DEEMED TO BE COMPLETED FIVE (5) DAYS AFTER THE SAME SHALL HAVE BEEN SO DEPOSITED IN THE MAIL, OR, AT LENDER'S OPTION, BY SERVICE UPON BORROWERS OR ANY OTHER LOAN PARTY IN ANY OTHER MANNER PROVIDED UNDER THE RULES OF ANY SUCH COURTS.

10.16 Publication. Each Borrower and each other Loan Party consents to the publication by Lender of a tombstone, press releases or similar advertising material relating to the financing transactions contemplated by this Agreement, and Lender reserves the right to provide to industry trade organizations information necessary and customary for inclusion in league table measurements.

10.17 Confidentiality. Lender agrees to use commercially reasonable efforts not to disclose Confidential Information to any Person without the prior consent of Borrowers; **provided, however,** that nothing herein contained shall limit any disclosure of the tax structure of the transactions contemplated hereby, or the disclosure of any information (a) to the extent required by applicable law, statute, rule, regulation or judicial process or in connection with the exercise of any right or remedy under any Loan Document, or as may be required in connection with the examination, audit or similar investigation of the Lender or any of its Affiliates, (b) to examiners, auditors, accountants or any regulatory authority, (c) to the officers, partners, managers, directors, employees, agents and advisors (including independent auditors, lawyers and counsel) of Lender or any of its Affiliates, (d) in connection with any litigation or dispute which relates to this Agreement or any other Loan Document to which the Lender is a party or is otherwise subject, (e) to a subsidiary or Affiliate of Lender, (f) to any assignee or Participant (or prospective assignee or Participant) which agrees to be bound by this Section 10.17 and (g) to any lender or other funding source of Lender (each reference to Lender in the foregoing clauses shall be deemed to include the actual and prospective assignees and participants referred to in clause (f) and the lenders and other funding sources referred to in clause (g), as applicable for purposes of this Section 10.17), and **provided further,** that in no event shall Lender be obligated or required to return any materials furnished by or on behalf of Borrowers or any other Loan Party. The obligations of Lender under this Section 10.17 shall supersede and replace the obligations of Lender under any confidentiality letter or provision in respect of this financing or any other financing previously signed and delivered by Lender to Borrowers or any of their respective Affiliates.

10.18 Borrowing Agency Provisions.

(a) Each Borrower hereby irrevocably designates Borrowing Agent to be its attorney and agent and in such capacity to (i) borrow, (ii) request advances, (iii) request the issuance of Letters of Credit, (iv) sign and endorse notes, (v) execute and deliver all instruments, documents, applications, security agreements, reimbursement agreements and letter of credit agreements for Letters of Credit and all other certificates, notice, writings and further assurances now or hereafter required hereunder, (vi) make elections regarding interest rates, (vii) give instructions regarding Letters of Credit and agree with the issuer thereof upon any amendment, extension or renewal of any Letter of Credit and (viii) otherwise take action under and in connection with this Agreement and the other Loan Documents, all on behalf of and in the name such Borrower, and hereby authorizes Lender to pay over or credit all Loan proceeds hereunder in accordance with the request of Borrowing Agent.

(b) The handling of this credit facility as a co-borrowing facility with a borrowing agent in the manner set forth in this Agreement is solely as an accommodation to Borrowers and at their request. Lender shall not incur liability to any Borrower as a result thereof. To induce Lender to do so and in consideration thereof, each Borrower hereby indemnifies Lender and holds Lender harmless from and against any and all liabilities, expenses, losses, damages and claims of damage or injury asserted against Lender by any Person arising from or incurred by reason of the handling of the financing arrangements of Borrowers as provided herein, reliance by Lender on any request or instruction from Borrowing Agent or any other action taken by Lender with respect to this Section 10.18 except due to willful misconduct or gross (not mere) negligence by the indemnified party (as determined by a court of competent jurisdiction in a final and non-appealable judgment).

(c) All Obligations shall be joint and several, and each Borrower shall make payment upon the maturity of the Obligations by acceleration or otherwise, and such obligation and liability on the part of each Borrower shall in no way be affected by any extensions, renewals and forbearance granted by Lender to any Borrower, failure of Lender to give any Borrower notice of borrowing or any other notice, any failure of Lender to pursue or preserve its rights against any Borrower, the release by Lender of any Collateral now or thereafter acquired from any Borrower, and such agreement by each Borrower to pay upon any notice issued pursuant thereto is unconditional and unaffected by prior recourse by Lender to the other Borrowers or any Collateral for such Borrower's Obligations or the lack thereof. Each Borrower waives all suretyship defenses.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, Borrowers, each other Loan Party signatory hereto, and Lender have signed this Agreement as of the date first set forth above.

Borrower:

TRANSACT TECHNOLOGIES INCORPORATED

By: /s/ Steven A. DeMartino
Name: Steven A. DeMartino
Its: President, Chief Accounting Officer, Treasurer and Secretary

Lender:

Siena Lending Group LLC

By: /s/ Anthony Lavino
Name: Anthony Lavino
Its: Authorized Signatory

By: /s/ Jason Schick
Name: Jason Schick
Its: Authorized Signatory

Signature Page to Loan and Security Agreement

**CERTIFICATION OF CHIEF EXECUTIVE OFFICER PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Bart C. Shuldman, certify that:

1. I have reviewed this quarterly report on Form 10-Q of TransAct Technologies Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

May 22, 2020

/s/ Bart C. Shuldman

Bart C. Shuldman

Chairman and Chief Executive Officer

**CERTIFICATION OF CHIEF FINANCIAL OFFICER PURSUANT TO SECTION 302 OF THE
SARBANES-OXLEY ACT OF 2002**

I, Steven A. DeMartino, certify that:

1. I have reviewed this quarterly report on Form 10-Q of TransAct Technologies Incorporated;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:
 - (a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;
 - (b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;
 - (c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and
 - (d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of registrant's board of directors (or persons performing the equivalent functions):
 - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
 - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: May 22, 2020

/s/ Steven A. DeMartino

Steven A. DeMartino

President, Chief Financial Officer, Treasurer and Secretary

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Quarterly Report of TransAct Technologies Incorporated (the "Company") on Form 10-Q for the period ended March 31, 2020, as filed with the Securities and Exchange Commission on the date hereof (the "Report"), each of the undersigned officers of the Company, certifies, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that to the best of his knowledge:

- (1) The Report fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 22, 2020

/s/ Bart C. Shuldman

Bart C. Shuldman
Chairman and Chief Executive Officer

Date: May 22, 2020

/s/ Steven A. DeMartino

Steven A. DeMartino
President, Chief Financial Officer, Treasurer and Secretary