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July 22, 2025

VIA ELECTRONIC FILING

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street, Filing Room
Harrisburg, PA 17120

Re: Petition of T-Mobile USA, Inc. for Interim Emergency Order Prohibiting Abandonment of Customers and Mandating Continuation of Public Utility Services; Docket No. P-2025-_____ **(Public Version)**

Application of Everstream Solutions, LLC for Approval of the Discontinuance of Competitive Access Services; Docket No. A-2025-3053757

Dear Secretary Homsher:

Enclosed for filing you will find the T-Mobile USA, Inc.'s Petition for Interim Emergency Order Prohibiting Abandonment of Customers and Mandating Continuation of Public Utility Services which was e-filed today. Copies have been served on all parties to this proceeding as indicated on the attached Certificate of Service.

T-Mobile notes that two of the accompanying exhibits have been designated as confidential and will be uploaded to the PUC SharePoint under separate cover.

Matthew L. Homsher, Secretary
Pennsylvania Public Utility Commission
July 22, 2025
Page 2

If you have questions regarding this filing, please contact me.

Very truly yours,
/s/ Whitney E. Snyder

Whitney E. Snyder
Thomas J. Sniscak
Erich W. Struble

Counsel for T-Mobile USA, Inc.

WES/das

Enclosure

cc: Chief ALJ Charles E. Rainey, Jr. (crainey@pa.gov)
ALJ Steven T. Haas (sthaas@pa.gov)
ALJ Chad A. Allensworth (callenswor@pa.gov)
Per Certificate of Service

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of	)	
	)	
T-Mobile USA, Inc. for Interim Emergency Order	)	Docket No. P-2025-
Prohibiting Abandonment of Customers and	)	
Mandating Continuation of Public Utility Services	)	
Application of	)	
	)	
Everstream Solutions, LLC for the Approval	)	Docket No. A-2025-3053757
Of the Discontinuance of Competitive Access Services	)	

Petition of T-Mobile USA, Inc. for Interim Emergency Order Prohibiting Abandonment of Customers and Mandating Continuation of Public Utility Service

Pursuant to 52 Pa. Code § 3.6, T-Mobile USA, Inc. (“T-Mobile”) submits this Petition for an Interim Emergency Order Prohibiting Abandonment of Customers and Mandating Continuation of Public Utility Service. Specifically, T-Mobile requests that the Commission issue an order that enjoins Everstream Solutions, LLC (“Everstream”) from abandoning any customers or service in Pennsylvania and that mandates Everstream continue providing service in Pennsylvania consistent with its Certificates of Public Convenience (“CPC”) that the Commission issued and that the Commission has not cancelled or revoked. A form order is attached as Appendix A.

T-Mobile notes that if Everstream has no intention of violating the law and abandoning service without PUC approval and is willing to execute, sign and file a sworn verification confirming the same, T-Mobile and Everstream can agree to waive hearing in this matter and have the Order included as Appendix A entered without further litigation.

T-Mobile implores the Commission to act expeditiously to avoid significant degradation of wireless and 911 service in the Commonwealth that Everstream’s abandonment will cause.

I. INTRODUCTION

1. Everstream is certified to and provides public utility service in the Commonwealth pursuant to CPCs.¹ Everstream's services, for which it sought and was granted PUC approval, include facilities-based competitive access provider services offered to business enterprise customers, including wavelength, managed services, and point-to-point and point-to-multipoint Ethernet.

2. The Commission has never issued a CPC to Everstream permitting Everstream to abandon its public utility service.

3. The law is clear that Everstream must continue providing public utility service until the Commission issues a CPC allowing Everstream to abandon service. 66 Pa. C.S. § 1102; *see also, e.g., Application of Everstream Solutions, LLC for Approval to Offer, Render, Furnish, or Supply Telecommunications Services to the Public as a Competitive Access Provider in the Commonwealth of Pennsylvania*, Docket No. A-2020-3022566, Opinion and Order at Ordering ¶ 16 (Order entered Feb. 25, 2021) ("That if Everstream Solutions, LLC plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing its competitive access services as described in its Application and the body of this Order.").

4. Abandoning service to customers in Pennsylvania including T-Mobile will have serious detrimental impacts on the public interest and cause irreparable injury.

5. If Everstream abandons service now or in the near future, it will have a far-reaching impact on T-Mobile's network and its customers because T-Mobile does not have sufficient time to transition to a replacement backhaul provider. Such a transition is a time

¹ A-2020-3022566, A-2020-3022774, A-2022-3031623, and A-2022-3034040.

intensive process and, for that reason, the parties agreed to a two-year winddown period which Everstream seeks to breach in terminating services prematurely.

6. Everstream provides backhaul services to a large amount of existing T-Mobile sites in Pennsylvania. In June alone, those sites supported millions of unique customers across various segments.²

7. Losing access to Everstream's service will result in significant service degradation across T-Mobile's network including decreased coverage and call quality, dropped calls, and diminished data throughputs.

8. Losing access to Everstream's service also will have a significant impact on the ability of consumers to reach vital emergency services (911). The availability of reliable communication services during an emergency is paramount for mobile subscribers including both Pennsylvania residents and individuals transiting throughout the Commonwealth.³

9. Everstream has applied for a CPC to abandon service at Docket No. A-2025-3053757 ("Abandonment Application"), but T-Mobile and Zito Media Communications have protested the Application.

10. Through its pending bankruptcy, Everstream is threatening to prematurely abandon service without CPC permission. Abandoning service without the permission of the Commission obtained through a CPC is a clear violation of law, let alone contrary to the public interest here. Such a violation of the law is per se irreparable harm. *Pa. PUC v. Israel*, 356 Pa. 400, 52 A.2d 317 (1947).

² This number includes T-Mobile retail and business customers, as well as other connected users.

³ See National Emergency Number Association, *9-1-1 Statistics*, <https://www.nena.org/page/911Statistics> (last visited Mar. 18, 2025).

11. Everstream has requested to delay the PUC proceedings to first complete its bankruptcy proceeding where it seeks to discontinue these services. A prehearing conference was delayed at the request of Everstream, even though the Abandonment Application represents Everstream would stop providing service on June 30, 2025. While Everstream has represented to T-Mobile in writing and the PUC that it would continue service until late December 2025, that timeframe remains patently insufficient to protect the Commonwealth's and the public's interest. In addition, Everstream has recently informed T-Mobile that it intends to discontinue services earlier in December, but it has also indicated in bankruptcy court that it wishes to cease terminating service even earlier. In short, Everstream's intention in discontinuing services is a moving target and that uncertainty is harmful to T-Mobile's ability to preserve critical 911 and other services in the public's interest.

12. Despite the pending Abandonment Application, the need for relief is immediate. Everstream has taken multiple actions indicating it will not wait for Commission approval to abandon service in Pennsylvania and intends to abandon service imminently to customers including T-Mobile. Everstream has filed for bankruptcy and is seeking permission to sell its business operations, excluding its Pennsylvania operations, and to wind down those services thereby depriving the Commonwealth of these critical services which Everstream is mandated by law to continue providing. It is uncertain whether Everstream even intends to observe its existing commitment to T-Mobile to provide service through 2025 given its ongoing attempts to wind down its Pennsylvania operations through its bankruptcy proceeding. Indeed, Everstream has implemented expedited procedures to immediately reject existing contracts (*i.e.*, abandon and relieve itself of future performance thereunder), which would only require seven (7) calendar days' notice to the contract counterparty. *See* Rejection Procedures Order, ¶ 1.d and e. Even if

Everstream does provide service to T-Mobile through 2025, that time period is patently insufficient to T-Mobile to ensure ongoing connectivity to Pennsylvania customers.

13. Entering an order that merely enforces the status quo to require Everstream to follow the law and continue to provide the public utility service that it has already committed to provide will not injure the public interest but instead will protect the public interest.

II. STATEMENT OF FACTS

A. Everstream CPCs

14. Everstream received permission from the Commission to provide Competitive Access Service in 2021 at Docket No. A-2020-3022566. As part of its Application, Everstream submitted a notarized Affidavit that Everstream “will abide by all applicable federal and state laws and regulations and by decision of the Pennsylvania Public Utility Commission.” **See Exhibit TM-1 (Everstream 2020 Application).**

15. Everstream’s operations in Pennsylvania are governed by a Tariff approved at Docket No. A-2020-3022566. **See Exhibit TM-2 (Everstream Tariff).**

16. To operate in Pennsylvania, Everstream acquired assets and contracts of PEG Bandwidth PA LLC and Southern Light LLC at Docket Nos. A-2020-3022772, A-2020-3022773, and A-2020-3022774 (Everstream).

17. In 2022 at Docket No. A-2022-3031623, the Commission approved a general rule transaction pro forma change in Everstream’s upstream ownership wherein Everstream represented the changes would not impact customers.

18. In 2023 at Docket No. A-2022-3034040, Everstream consummated a change in control transaction wherein it represented to the Commission the transaction would have no impacts on customers and that the applicants “are not facing imminent business failure.”

Everstream further verified “the Transaction will not have a negative impact on Licensee’s [Everstream’s] capital structure over the next five years.” **See Exhibit TM-3 at ¶ 20 (Everstream DB Puma 2022 Application).**

19. A mere 27 months after the Commission’s November 2022 approval of the Everstream DB Puma 2022 Application, Everstream filed its Abandonment Application.

B. Everstream’s Service Obligations to T-Mobile

20. Everstream has been providing service to T-Mobile under a Master Agreement entered in 2017. **See Confidential Exhibit TM-4, Master Agreement between T-Mobile USA, Inc. and Everstream Solutions, LLC (effective Sept. 29, 2017).** Under this agreement, Everstream provides T-Mobile with ethernet backhaul services to T-Mobile sites and segments, as well as installation and maintenance of required equipment and technical support.

21. Given the integral nature of the services provided by Everstream to T-Mobile’s network and in recognition of the challenges that T-Mobile would face in transitioning to another backhaul provider, the agreement between the parties allows for a two-year “wind-down period” when the contracted services are terminated for any reason, including upon discontinuance of service or the end of any contractual term.

22. In 2022, Everstream and T-Mobile entered into a Restated Market Service Order (“Service Order”) that reestablished the term for services subject to the Master Agreement. **See Confidential Exhibit TM-5, 2022 Restated Market Service Order between T-Mobile USA, Inc. and Everstream Solutions, LLC (effective Apr. 1, 2022).** Under the Service Order, Everstream agreed to provide the contracted backhaul services to T-Mobile sites until March 31, 2029. The extended service term underscores T-Mobile’s need for long-term stability in its receipt of these services and the challenges and complexity associated with changing providers.

23. T-Mobile first learned Everstream intended to exit unspecified markets via its February 3, 2025 Notice of Discontinuation. *See Exhibit TM-6, Notice of Discontinuation of Everstream Solutions, LLC (Feb. 3, 2025).*⁴

C. Everstream's Abandonment of Service Will Cause Irreparable Harm

24. Everstream's proposed discontinuance will have a far-reaching impact on T-Mobile's network and its customers, particularly considering that T-Mobile will not have sufficient time to transition to a replacement backhaul provider.

25. Everstream provides backhaul services to a large amount of existing T-Mobile sites in Pennsylvania. In June alone, those sites supported millions of unique customers across various segments.⁵

26. Losing access to the services provided by Everstream will render these affected sites unable to support T-Mobile subscribers, resulting in significant service degradation across T-Mobile's network in the form of decreased coverage and call quality, dropped calls, and diminished data throughputs.

27. Losing access to the services provided by Everstream also will have a significant impact on the ability of consumers to reach vital emergency services. In a given month, thousands of emergency calls are routed through the impacted sites to public safety answering points ("PSAPs")—including approximately hundreds of calls made by non-T-Mobile customers that accessed the T-Mobile network for the purpose of making a 911 call. Given that more than 80% of 911 calls made during emergencies originate from wireless devices, the availability of reliable communication services during an emergency is paramount for mobile subscribers

⁴ Everstream did not provide T-Mobile a list of impacted sites until March 6, over a month after its initial discontinuance notice.

⁵ This number includes T-Mobile retail and business customers, as well as other connected users.

including both Pennsylvania residents and individuals transiting throughout the Commonwealth.⁶The degraded service due to Everstream’s discontinuance is particularly concerning given that these sites support essential emergency and municipal services in addition to T-Mobile mobile wireless and home internet customers. According to T-Mobile’s analysis, the impacted sites support lines providing connectivity to schools, libraries, police and fire departments, and government offices across the impacted region. As a result, Everstream’s discontinuance will not only impact the ability of consumers to reach life-saving services, but also potentially impede outreach to and coordination between emergency personnel using T-Mobile devices during critical, time-sensitive situations.

28. Everstream contends that its decision to discontinue services “will affect less than 40 business enterprise and carrier customers.”⁷ This is a gross mischaracterization of the negative impact of Everstream’s discontinuance because it ignores the millions of downstream customers of T-Mobile and other similarly situated providers that will be impacted by Everstream’s abrupt exit from the market. Indeed, this disruption to service will extend beyond consumers living in the areas where the impacted sites are located; because these sites will not be operational, surrounding sites will be forced to take on greater traffic loads, causing increased congestion, decreased speeds, and a diminished network experience for customers connected to those sites. Customers who drive through areas that were served by the impacted sites could suffer call drops and a loss of data connectivity, interrupting navigation and other key services. Overall, the net effect of Everstream’s proposed discontinuance will be a substantial disruption

⁶ See National Emergency Number Association, *9-1-1 Statistics*, <https://www.nena.org/page/911Statistics> (last visited Mar. 18, 2025).

⁷ See Everstream Abandonment Application at ¶8.

to the high-quality service that T-Mobile’s customers and roamers have grown to expect, as well as to life-saving communications.

29. Contrary to Everstream’s unsubstantiated factual claim that “the public interest will not be harmed by the discontinuance,”⁸ there will be significant harm to consumers in Pennsylvania if Everstream abandons service.

30. T-Mobile has been diligently pursuing alternatives to Everstream’s services in response to Everstream’s express intention to breach its contractual obligations and violate its obligations under the Pennsylvania law. T-Mobile has investigated alternate providers and is in the process of working to transition the sites but such transitions require additional leasing, licensing, permitting and construction of alternative sites which is a time-consuming process.

31. Despite diligent efforts, substantial additional time is needed for T-Mobile to secure replacement backhaul that Everstream currently serves for T-Mobile; such capacity alternatives need to be built out which is a significant undertaking that likely will not be completed until late 2026. Everstream’s threat to abandon its service obligations without sufficient time to move to alternatives threatens the Pennsylvania public’s access to critical emergency services and connectivity.

32. The agreement between Everstream and T-Mobile expressly contemplates a minimum two-year “wind-down period” when services are terminated. And the reason for that two-year wind-down is obvious. This timeframe was intended to provide an appropriate transition path for T-Mobile and is reflective of the significant undertaking needed to transfer to a new backhaul provider and avoid disruption for customers. Everstream, in its rush to exit its certified service and its service to the public, has left T-Mobile—and potentially other similarly

⁸ Everstream Abandonment Application at ¶6.

situated providers—insufficient time to make alternative arrangements to ensure that its customers are not harmed.

D. Everstream's Actions to Abandon Service

33. On March 5, 2025, Everstream filed the Abandonment Application with the Commission. The Commission issued a Secretarial Letter on that same day acknowledging receipt of Everstream's Application, noting that the matter will receive the attention of the Commission.

34. On March 24, 2025, Zito Media Communications filed a Protest to the Abandonment Application.

35. On April 10, 2025, T-Mobile filed a Protest to the Abandonment Application.

36. To date, the Abandonment Application has not been published in the Pennsylvania Bulletin and thus the public has had no notice of the Abandonment Application proceeding.

37. On April 2, 2025, Administrative Law Judges Allensworth and Haas emailed Everstream and Zito regarding scheduling a prehearing conference in May.

38. On May 28, 2025, Everstream filed for bankruptcy under Chapter 11 of the Bankruptcy Code. See **Exhibit TM-7 (May 28, 2025 Bankruptcy Notice)**.

39. On June 13, 2025, Zito provided a status report and requested that a prehearing conference be held.

40. On June 16, 2025, T-Mobile indicated it supported Zito's request to hold a prehearing conference in the Abandonment Application proceeding.

41. On June 17, 2025, the ALJs indicated a prehearing conference would be held between July 21, 2025 and August 1, 2025. See **Exhibit TM-8 (ALJ and Parties Email Chain Regarding Prehearing Conference)**.

42. On July 2, 2025, Everstream requested the prehearing conference be delayed due to Everstream's bankruptcy filing. Everstream's counsel expressly represented:

This request is based on the bankruptcy court having scheduled a sale order confirmation hearing for Friday, August 1. The docket is available here: <https://cases.stretto.com/everstream/case-date-list/>. *It is possible that a bidder may participate in the bankruptcy court auction process to acquire Everstream's Pennsylvania assets, which would directly impact the status of the discontinuance application pending before this Commission, or to acquire other assets with an agreement to participate in the winddown of Pennsylvania services.* Everstream expects to have a more complete understanding on the status of its Pennsylvania business after the August 1 sale order confirmation hearing.

See Exhibit TM-8 (ALJ and Parties Email Chain Regarding Prehearing Conference).

43. Everstream's representation that the PUC should await the outcome of the bankruptcy process because a buyer may very well come in to purchase the Pennsylvania operations is misleading and contrary to its actions in the bankruptcy court. Everstream has told the bankruptcy court that, despite two years of effort, it cannot sell the Pennsylvania assets and they are excluded from the current sale process. Specifically, along with its bankruptcy petition, on May 28, 2025, Everstream filed a motion to sell substantially all of its assets, *with the exception of the Pennsylvania operations* (the "**Sale Motion**"). **See Exhibit TM-9 (Sale Motion).** In support, Everstream submitted the Declaration of Justin Schmaltz, Managing Director of Alvarez & Marsal North America, LLC (the "**Schmaltz Declaration**"). According to the Schmaltz Declaration, Everstream commenced as early as October 2023 "a robust sale process for the Company's assets in the states (and surrounding areas) of Illinois [...] Missouri [...], and Pennsylvania [...]," **See Exhibit TM-10, Schmaltz Declaration, ¶ 11.**

44. Everstream swore under oath to the bankruptcy court that efforts to sell Pennsylvania operations have failed so it is shutting down operations, not continuing efforts to

sell the Pennsylvania assets so service is maintained. Mr. Schmaltz attests that despite substantial efforts to sell the Pennsylvania operations, Everstream made the decision in January 2025 to terminate all services in the Pennsylvania market, and that Everstream has taken steps to alert impacted customers in the Pennsylvania market and to obtain regulatory approval to discontinue services:

Wind Down of Pennsylvania Market. In January 2025, the Company made the difficult decision to discontinue all services in Pennsylvania and the surrounding states (such market, the “Pennsylvania Market”) and begin the decommissioning of the Pennsylvania Assets. This decision was the culmination of several factors discussed above, including the challenged architecture of the Pennsylvania Market, underperforming agreements in connection therewith, and the results of the Prepetition Sale Process that yielded no buyers for the Pennsylvania Assets. The Company has already alerted all affected customers to transition off the Fiber Network in the Pennsylvania Market and began the regulatory process necessary to discontinue services therein. The Company intends to continue and complete such wind down in these chapter 11 cases.

See Schmaltz Declaration, ¶ 46.

45. A truncated timeline has been established for the Sale Motion. The auction on the Sale Motion is scheduled for July 22, 2025 at 8 a.m. (prevailing Central Time). The deadline to object to the Sale Motion is July 28, 2025. The hearing on the approval of the Sale Motion is scheduled for August 1, 2025 at 1 p.m. (prevailing Central Time). See **Exhibit TM-11 (Bidding Procedures Order)**. Furthermore, Everstream has also established expedited rejection procedures, which allows Everstream to abandon and relieve itself of future performance under its existing agreements and on seven (7) days’ notice (the “**Rejection Procedures Order**”). See **Exhibit TM-12 (Rejection Procedures Order)**. So Everstream is simultaneously seeking to delay these Pennsylvania proceedings to avoid the PUC mandating ongoing service consistent with Everstream’s obligations to the public while seeking bankruptcy court approval to shut

down its operations and sell its non-Pennsylvania assets. These statements and actions are precisely why urgent action is needed so any potential buyer for Everstream's business and the bankruptcy court know that Pennsylvania service must continue.

III. PETITION FOR INTERIM EMERGENCY RELIEF

46. As demonstrated below, the facts described above when analyzed under the Commission's requirements for interim emergency relief clearly indicate an order should be issued prohibiting Everstream from abandoning service unless and until it receives permission from the Commission to do so.

47. T-Mobile notes that if Everstream has no intention of violating the law and abandoning service without PUC approval, T-Mobile and Everstream can agree to waive hearing in this matter and have the Order included as Appendix A entered without further litigation.

A. Legal Standards

48. The Commission's regulations at 52 Pa. Code Subchapter A provide for interim emergency relief.

49. Section 3.6 provides the legal standards to obtain an interim emergency order:

- (1) The petitioner's right to relief is clear.
- (2) The need for relief is immediate.
- (3) The injury would be irreparable if relief is not granted.
- (4) The relief requested is not injurious to the public interest.

52 Pa. Code § 3.6(b).

B. 52 Pa. Code § 3.6(b)(1) - The Petitioner's Right to Relief is Clear

50. T-Mobile's right to relief is clear because abandonment of service without Commission permission is a clear and well-established violation of the Public Utility Code and the Commission Order granting Everstream its original CPC. 66 Pa. C.S. § 1102; *see also, e.g.*,

Application of Everstream Solutions, LLC for Approval to Offer, Render, Furnish, or Supply Telecommunications Services to the Public as a Competitive Access Provider in the Commonwealth of Pennsylvania, Docket No. A-2020-3022566, Opinion and Order at Ordering ¶ 16 (Order entered Feb. 25, 2001) (“That if Everstream Solutions, LLC plans to cease doing business within the Commonwealth of Pennsylvania, it shall request authority from the Commission for permission prior to ceasing its competitive access services as described in its Application and the body of this Order.”).

51. Stated another way, T-Mobile is simply asking for an injunction or administrative order under Pennsylvania administrative law that requires Everstream to follow the law and continue providing the service Everstream has committed to this Commission, T-Mobile, and the public, that it will provide. T-Mobile’s right to relief is clear.

C. 52 Pa. Code § 3.6(b)(2) - The Need for Relief is Immediate

52. The need for relief is immediate for two reasons. First, Everstream has evidenced its intent to flout the Public Utility Code, the Commission’s Order granting its CPC, and its commitments to T-Mobile and abandon service without obtaining PUC permission. Second, T-Mobile to date does not have alternative service in place.

53. Everstream has represented in the bankruptcy case—through the Schmaltz Declaration, the Sale Motion, and the Rejection Procedures Order—that it views the Pennsylvania market as burdensome to the bankruptcy estate. Given the truncated sale timeline and the expedited rejection procedures, Everstream can at any point seek a bankruptcy court order to discontinue its services in the Pennsylvania market. At no point in the bankruptcy case has Everstream informed the bankruptcy court and its creditors that abandoning service to

customers, particularly access to emergency communications, without the approval of the Commission is a clear violation of law, let alone contrary to public interest.

54. Regarding T-Mobile's attempts to find alternatives, T-Mobile has been diligently pursuing alternatives to Everstream's. T-Mobile has investigated alternate providers and is in the process of working to transition over the sites. However, such transitions require additional leasing, licensing, permitting and construction of alternative backhaul and equipment which is a time-consuming process, so despite T-Mobile's best efforts, Everstream's breaches threaten critical services and must be enjoined for the benefit of the Commonwealth.

55. Because of Everstream's efforts to sell its remaining operations and discontinue Pennsylvania service through the bankruptcy process, the need for an order enjoining Everstream from abandoning service is immediate.

D. 52 Pa. Code § 3.6(b)(3)The Injury Would be Irreparable if Relief is Not Granted

56. Irreparable injury will occur not just to T-Mobile but the Commonwealth and public if Everstream abandons service. As explained in the statement of facts above, the service Everstream provides is integral to T-Mobile's provision of service to end-use retail wireless and internet customers in Pennsylvania. If Everstream's service is abandoned, T-Mobile currently has no service alternative for the impacted sites. This would result in substantial harm to:

- current Everstream customers, including T-Mobile, who will lose service from impacted sites and its ability to provide service downstream will degrade with no near term known substitute services available at this time;
- The millions of downstream customers of T-Mobile who will face significant service degradation across T-Mobile's network in the form of decreased coverage and call quality, dropped calls, and diminished data throughputs;

- Emergency callers, who make thousands of calls to 911 through impacted sites in a given month;
- The general public in Pennsylvania because other sites will be forced to take on greater traffic loads, causing increased congestion, decreased speeds, and a diminished network experience for customers connected to those sites, including drivers who may suffer loss of navigation services.
- Schools, libraries, police and fire departments, and government offices across the impacted region would be negatively impacted as the affected sites provide connectivity to these entities.

57. In addition to the above tangible irreparable harm that Everstream's abandonment will cause, illegal activity, such as abandoning service without the Commission's permission, is *per se* irreparable harm. *Pa. PUC v. Israel*, 356 Pa. 400, 52 A.2d 317 (1947).

E. 52 Pa. Code § 3.6(b)(4) - The Relief Requested is Not Injurious to the Public Interest

58. Given the irreparable harm described above coupled with the fact that T-Mobile is simply seeking a mandate for Everstream to continue the status quo and continue providing the service it is already providing and has committed to provide, there is clearly no injury to the public interest in granting the relief requested.

IV. CONCLUSION

Pursuant to clear and well-established law, Everstream has a specific requirement and duty to continue providing the public utility service in Pennsylvania that this Commission certified Everstream to provide unless and until otherwise cancelled. T-Mobile requests that the Commission issue an Interim Emergency Order mandating Everstream comply with the law and

continue providing public utility service in Pennsylvania consistent with these requirements. A proposed Order is included as Appendix A.

WHEREFORE, T-Mobile respectfully requests the Commission issue an interim emergency order prohibiting Everstream from abandoning public utility service in the Commonwealth in the form included as Appendix A.

Respectfully submitted,

/s/ Whitney E. Snyder

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Erich W. Struble
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/s/ Michelle Painter Lama

Michelle Painter Lama
T Mobile
601 Pennsylvania Avenue NW
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Washington, DC 20004
Michelle.Lama@t-mobile.com

Dated: July 22, 2025

Appendix A

Proposed Interim Emergency Order

**BEFORE THE
PENNSYLVANIA PUBLIC UTILITY COMMISSION**

Petition of	)	
	)	
T-Mobile USA, Inc. for Interim Emergency Order	)	Docket No. P-2025-
Prohibiting Abandonment of Customers and	)	
Mandating Continuation of Public Utility Services	)	
Application of	)	
	)	
Everstream Solutions, LLC for the Approval	)	Docket No. A-2025-3053757
Of the Discontinuance of Competitive Access Services	)	

**ORDER GRANTING INTERIM EMERGENCY RELIEF
AND CERTIFYING MATERIAL QUESTION**

THEREFORE,

IT IS ORDERED:

1. That the Petition for Interim Emergency Order Prohibiting Abandonment of Customers and Mandating Continuation of Public Utility Service filed on July 18, 2025 by T-Mobile USA, Inc., is granted.
2. That Everstream Solutions, LLC and any predecessor in interest is barred from abandoning public utility service in the Commonwealth pending a final order on the Abandonment Application filed by Everstream Solutions, LLC at Docket No. A-2025-3053757.
3. That Everstream Solutions, LLC shall continue providing public utility service on the same terms and conditions in the Commonwealth as certified in the Commonwealth and

consistent with its Tariff on file at Docket No. A-2020-3022566 and as to T-Mobile, the **Master Agreement between T-Mobile USA, Inc. and Everstream Solutions, LLC (effective Sept. 29, 2017) and 2022 Restated Market Service Order between T-Mobile USA, Inc. and Everstream Solutions, LLC (effective Apr. 1, 2022).**

4. That the grant of relief by interim emergency order in this proceeding at Docket Nos. P-2025- and A-2025-3053757 is hereby certified to the Commission as a material question requiring interlocutory review.

EXHIBIT TM-1

RECEIVED

OCT 1 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAUeverstream™
FASTER FIBER. BETTER BUSINESS.

September 28, 2020

Rosemary Chiavetta
Secretary
Pa. Public Utility Commission
Commonwealth Keystone Building
400 North Street
Second Floor - Room N201
Harrisburg, PA 17120

RECEIVED

SEP 29 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Re: Application of Everstream Solutions LLC
For Authority to Provide Telecommunications
Services in the Commonwealth of Pennsylvania
Docket No. _____

Dear Ms./ Chiavetta:

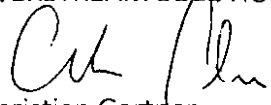
Enclosed please find the Application of Everstream Solutions LLC For Authority to Provide Telecommunications Services in the Commonwealth of Pennsylvania.

Also enclosed is the filing fee of \$250.00.

Please note that Exhibit E contains confidential Financial Statements.

Respectfully submitted;

EVERSTREAM SOLUTIONS, LLC


Christian Gartner
Chief Financial Officer

RECEIVED

OCT 1 2020

Application of:PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Everstream Solutions, LLC,

for approval to offer, render, furnish or supply telecommunications services to the public in the Commonwealth of Pennsylvania.

1. **IDENTITY OF THE APPLICANT:** The name, address, telephone number, and fax number of the Applicant.

**Everstream Solutions, LLC
1228 Euclid Ave. #250
Cleveland, Ohio 44115
216-242-2879
[Add Fax]**

Applicant is a super-regional network services provider originally formed as a for-profit subsidiary of OneCommunity in Cleveland, Ohio, which was spun off into and independent company in 2014. Applicant is a wholly-owned subsidiary of Midwest Fiber Acquisitions, LLC, Midwest Fiber Acquisitions is in turn owned by AMP Capital Investors, a global investment manager headquartered in Australia, with its principal office in the United States located at 1111 Avenue of the Americas, 40th Floor, New York, NY 10036.

Please identify any predecessors of the Applicant and provide other names under which the Applicant has operated within the preceding five years, including name, address, and telephone number.

Applicant has operated under the fictitious name, "Everstream".

2. **ATTORNEY:**

Charles E. Thomas, Jr.
212 Locust Street
Suite 302
Harrisburg, PA 17101
717.255.7615 (phone)
717.236.8278 (fax)
cthomasjr@tntlawfirm.com

~~RECEIVED~~~~SEP 29 2020~~~~PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU~~

3. CONTACTS:

- A) APPLICATION:** The name, title, address, telephone number, and fax number of the person to whom questions about this application should be addressed.

Christian Gartner
1220 Euclid Ave. #250
Cleveland, Ohio 44115
216-242-2879
[Fax]
cgartner@everstream.net

- B) PENNSYLVANIA EMERGENCY MANAGEMENT AGENCY (PEMA):** The name, title, address, telephone number and FAX number of the person with whom contact should be made by PEMA (Pennsylvania Emergency Management Agency).

Christian Gartner
1220 Euclid Ave. #250
Cleveland, Ohio 44115
216-242-2879
cgartner@everstream.net

- C) RESOLVING COMPLAINTS:** Name, address, telephone number, and FAX number of the person and an alternate person responsible for addressing customer complaints. These persons will ordinarily be the initial point(s) of contact for resolving complaints and queries filed with the Public Utility Commission or other agencies.

Christian Gartner
1220 Euclid Ave. #250
Cleveland, Ohio 44115
216-242-2879
[Fax]
cgartner@everstream.net

4. FICTITIOUS NAME:

- ☐ The Applicant will not be using a fictitious name.

X The Applicant will be using a fictitious name. Attach to the Application a copy of the Applicant's filing with the Commonwealth's Department of State pursuant to 54 Pa. C.S. § 311, Form PA-953.

- 5. BUSINESS ENTITY AND DEPARTMENT OF STATE FILINGS:** Applicant has registered its business with the Pennsylvania Department of State. Please check the appropriate registration type for Applicant as designated with the Department.

☐	Sole proprietor
☐	Domestic general partnership
☐	Domestic corporation
☐	Domestic limited partnership
☐	Domestic limited liability company
☐	Domestic limited liability partnership
☐	*Foreign corporation
☐	*Foreign general or limited partnership
☒	*Foreign limited liability company
☐	*Foreign limited liability general partnership
☐	*Foreign limited liability limited partnership

*Provide name and address of Corporate Registered Office Provider or Registered Office within PA.

C T Corporation System,
600 North 2nd Street, Suite 401,
Harrisburg, PA 17101

Attach to the application the name and address of partners. If any partner is not an individual, identify the business nature of the partner entity and identify its partners or officers.

Attach to the application proof of compliance with appropriate Department of State filing requirements as indicated above. **See Exhibit A** Additionally, provide a copy of the Applicant's Articles of Incorporation or a Certificate of Organization. **See Exhibit B.**

The Applicant is formed in the State of Ohio.

Give name and address of officers:

Brett Lindsey, President and Chief Executive Officer
Christian Gartner, Chief Financial Officer
Chuck Girt, Chief Technology Officer
Bill Major, Chief Revenue Officer
1220 Euclid Ave. #250
Cleveland, Ohio 44115

A summary of biographical information on the officers is attached as Exhibit C

6. AFFILIATES AND PREDECESSORS WITHIN PENNSYLVANIA:

X The Applicant has no affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania.

- ☐ The Applicant has affiliates doing business in Pennsylvania or predecessors which have done business in Pennsylvania. Name and address of the affiliates. State whether they are jurisdictional public utilities. Give docket numbers for the authority of such affiliates.

If the Applicant or an affiliate has predecessors who have done business within Pennsylvania, give name and address of the predecessors and state whether they were jurisdictional public utilities. Give the docket numbers for the authority of such predecessors.

7. AFFILIATES AND PREDECESSORS RENDERING PUBLIC UTILITY SERVICE OUTSIDE PENNSYLVANIA:

- ☐ The Applicant has no affiliates rendering or predecessors which rendered public utility service outside Pennsylvania.

X The Applicant has affiliates rendering or predecessors which rendered public utility service outside Pennsylvania. Name and address of the affiliates and predecessors (please identify affiliates versus predecessors).

Everstream GLC Holding Company LLC [affiliate] provides telecommunications services in Illinois, Indiana, Michigan, Minnesota, Ohio and Wisconsin

Lynx Network Group, Inc. [affiliate] provides telecommunications services in Michigan

x

8. APPLICANT'S PRESENT OPERATIONS: (Select and complete the appropriate statement)

X The applicant is not presently doing business in Pennsylvania as a public utility.

☐ The applicant is presently doing business in Pennsylvania as a:

- ☐ Interexchange Toll Reseller, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
- ☐ Interexchange Toll Facilities-based carrier, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
- ☐ Competitive Access Provider (dedicated point-to-point or multipoint service; voice or data)
- ☐ Competitive Local Exchange Carrier.
- ☐ Incumbent Local Exchange Carrier.
- ☐ Other (Identify).

9. APPLICANT'S PROPOSED OPERATIONS: The Applicant proposes to operate as:

- ☐ Interexchange Toll Reseller, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
- ☐ Interexchange Toll Facilities-based carrier, InterLATA and/or IntraLATA, (e.g., MTS, 1+, 800, WATS, Travel and Debit Cards)
- XCompetitive Access Provider (dedicated point-to-point or multipoint service; voice or data)**
- ☐ Competitive Local Exchange Carrier.
- ☐ Incumbent Local Exchange Carrier
- ☐ Other (Identify).

10. PROPOSED SERVICES: Describe in detail the services which the Applicant proposes to offer. If proposing to provide more than one category in Item #9, clearly and separately delineate the services within each proposed operation. Provide a brief description of the facilities the Company will use to provide services. Specify whether those facilities are Company-owned or obtained from other companies as UNEs or on a resold basis.

Everstream proposes to offer point-to-point high speed ethernet, point to multipoint high speed ethernet, dedicated internet access, virtual dedicated internet

access, dark fiber, data center services, Dedicated Dense Wavelength Division Multiplexing and managed wave services.

- 11. SERVICE AREA:** Describe the geographic service area in which the Applicant proposes to offer services. Clearly and separately delineate the service territory for each category listed in Item #9. For Competitive Local Exchange Carrier operations, you must name and serve the Incumbent Local Exchange Carriers in whose territory you request authority.

Everstream proposes to offer all of the above listed services throughout Pennsylvania.

- 12. MARKET:** Describe the customer base to which the Applicant proposes to market its services. Clearly and separately delineate a market for each category listed in Item #9.

Everstream proposes to offer the above-listed services to business customers only. Everstream does not propose to offer residential services.

- 13. PROPOSED TARIFF(S):** Each category of proposed operations must have a separate and distinct proposed tariff setting forth the rates, rules and regulations of the Applicant. Every proposed tariff shall state on its cover page the nature of the proposed operations described therein, i.e., IXC Reseller, CLEC, CAP, or IXC Facilities-based. A copy of all proposed tariffs must be appended to each original and duplicate original and copy of Form 377.

See Exhibit D

- 14. FINANCIAL: *Attach the following to the Application:***

A general description of the Applicant's capitalization and, if applicable, its corporate stock structure;

Current balance sheet, Income Statement, and Cash Flow Statement of Applicant or Affiliated Company, if relying on affiliate for financial security;

A tentative operating balance sheet and a projected income statement for the first year of operation within the Commonwealth of Pennsylvania; provide the name, title, address, telephone number and fax number of the Applicant's custodian for its accounting records and supporting documentation; and indicate where the Applicant's accounting records and supporting documentation are, or will be, maintained.

If available, include bond rating, letters of credit, credit reports, insurance coverage and reports, and major contracts.

See Exhibit E

- 15. START DATE:** The Applicant proposes to begin offering services on or about
As soon as the Commission shall authorize Applicant to commence service.

- 16. FURTHER DEVELOPMENTS:** Attach to the Application a statement of further developments, planned or contemplated, to which the present Application is preliminary or with which it forms a part, together with a reference to any related proceeding before the Commission.

N/A

- 17. NOTICE:** Pursuant to 52 Pa. Code § 5.14, you are required to serve a copy of the signed and verified Application, with attachments, on the below-listed parties, and file proof of such service with this Commission:

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Office of Attorney General
Office of Consumer Protection
Strawberry Square
Harrisburg, PA 17120

A certificate of service must be attached to the Application as proof of service that the Application has been served on the above-listed parties. A copy of any Competitive Local Exchange Carrier Application must also be served on any and/or all Incumbent Local Exchange Carrier(s) in the geographical area where the Applicant proposes to offer services. See Exhibit F

- 18. FEDERAL TELECOMMUNICATIONS ACT OF 1996:** State whether the Applicant claims a particular status pursuant to the Federal Telecommunications Act of 1996. Provide supporting facts.

Applicant holds foreign and domestic 214 licenses from the FCC.

19. **COMPLIANCE:** State specifically whether the Applicant, an affiliate, a predecessor of either, or a person identified in this Application has been convicted of a crime involving fraud or similar activity. Identify all proceedings, limited to proceedings dealing with business operations in the last five (5) years, whether before an administrative body or in a judicial forum, in which the Applicant, an affiliate, a predecessor of either, or a person identified herein has been a defendant or a respondent. Provide a statement as to the resolution or present status of any such proceedings.

N/A

20. **FALSIFICATION:** The Applicant understands that the making of false statement(s) herein may be grounds for denying the Application or, if later discovered, for revoking any authority granted pursuant to the Application. This Application is subject to 18 Pa. C.S. §§ 4903 and 4904, relating to perjury and falsification in official matters.
21. **CESSATION:** The Applicant understands that if it plans to cease doing business within the Commonwealth of Pennsylvania, it is under a duty to request authority from the Commission for permission prior to ceasing business.

Applicant:

Everstream Solutions LLC

By:



Christian Gartner

Title: Chief Financial Officer_____

22. AFFIDAVIT: Attach to the Application an affidavit as follows:**AFFIDAVIT**

State of Ohio :
 : ss.
 County of Cuyahoga :

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SECRETARY'S BUREAU

Christian Gartner, Affiant, being duly [sworn/affirmed] according to law, deposes and says that:

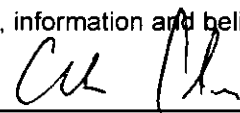
Affiant is the Chief Financial Officer of Everstream Solutions, LLC

That Affiant is authorized to and does make this affidavit for said company;

That Everstream Solutions LLC, the Applicant herein, acknowledges that it may have an obligation to serve or to continue to serve the public by virtue of the Applicant commencing the rendering of service pursuant to this Application consistent with the Public Utility Code of the Commonwealth of Pennsylvania, Title 66 of the Pennsylvania Consolidated Statutes; with the Federal Telecommunications Act of 1996, signed February 6, 1996, or with other applicable statutes or regulations;

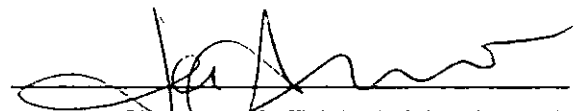
That Everstream Solutions LLC, , the Applicant herein, asserts that Affiant possesses the requisite technical, managerial, and financial fitness to render public utility service within the Commonwealth of Pennsylvania and that the Applicant will abide by all applicable federal and state laws and regulations and by the decisions of the Pennsylvania Public Utility Commission.

That the facts above set forth are true and correct] to the best of [Affiant knowledge, information and belief, and that Affiant expects said entity to be able to prove the same at any hearing thereof.



Signature of Affiant

Sworn and subscribed before me this 29 day of SEPT, 2020.
 Month Year



Signature of official administering oath

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAUMy Commission expires April 23, 2025JARA ANTON
Notary Public, State of Ohio
My Commission Expires
April 23, 2025

23. § 1.36 Verification.**Verification**

I, Christian Gartner, hereby state that the facts above set forth are true and correct (or are true and correct to the best of my knowledge, information and belief), and that I expect to be able to prove the same at a hearing held in this matter. I understand that the statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 (relating to unsworn falsification to authorities).

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SECRETARY'S BUREAU

9/29/2020 Ch. G. Ch. G.
Date Signature

Christian Gartner

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SECRETARY'S BUREAU

EXHIBIT A

PENNSYLVANIA QUALIFICATION AS FOREIGN LLC

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**PENNSYLVANIA DEPARTMENT OF STATE
 BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

Document will be returned to the name and address entered below.			Foreign Registration Statement DSCB: 15-412 (rev. 2/2017)  412	
Mark Iafrate Name 124 W. Allegan, Suite 700 Address Lansing MI 48933 City State Zip Code				

Read all instructions prior to completing. This form may be submitted online at <https://www.corporations.pa.gov>.

Fee: \$250.00

☐ I qualify for a veteran/reservist-owned small business fee exemption (see instructions)

In compliance with the requirements of the applicable provisions of 15 Pa.C.S. § 412 (relating to foreign registration statement), the undersigned foreign association hereby states that:

1. The type of association is (check only one):

☐ Business Corporation	☐ Limited Partnership	☐ Business Trust
☐ Nonprofit Corporation	☐ Limited Liability (General) Partnership	☐ Professional Association
☒ Limited Liability Company	☐ Limited Liability Limited Partnership	

2. The full and proper name of the foreign association as registered in its jurisdiction of formation is:

Everstream Solutions LLC

2A. If the name in 2 does not contain a required designator or if the name in 2 is not available for use in the Commonwealth, the alternate name under which the association is registering in this Commonwealth is:

3. The jurisdiction of formation: OH

4. The street and mailing address of the association's principal office.

1228 Euclid Avenue, Suite 250	Cleveland	OH	44115
Number and street	City	State	Zip

4A. The street and mailing address of the office, if any, required to be maintained by the law of the association's jurisdiction of formation in that jurisdiction:

4400 Easton Commons Way, Suite 125	Cleveland	OH	44115
Number and street	City	State	Zip

DSCB:15-412-page2

5. The (a) address of the association's registered office in this Commonwealth or (b) name of its commercial registered office provider and the county of venue is:

Complete part (a) **OR** (b) – not both:

(a) _____
 Number and street City State Zip County
OR
 (b) c/o: CT CORPORATION SYSTEM Dauphin
 Name of Commercial Registered Office Provider County

6. Check one of the following:

- ☒ The association may not have series.
☐ The association may have one or more series.

7. Effective date of registration of foreign association (check, and if appropriate complete, one of the following):

- ☒ The Foreign Registration Statement shall be effective upon filing in the Department of State.
☐ The Foreign Registration Statement shall be effective on: _____ at _____
 Date (MM/DD/YYYY) Hour (if any)

8. To be completed by **Limited Liability Companies only**. Check, and if appropriate complete, one of the following:

- ☒ The association is a limited liability company which is not organized to render any of the below professional service(s).
☐ The association is a restricted professional limited liability company organized to render one or more of the following professional service(s): (If this box is checked, one or more of the fields below must be checked.)

___ Chiropractic ___ Dentistry ___ Law ___ Medicine and surgery
 ___ Optometry ___ Osteopathic medicine and surgery ___ Podiatric medicine ___ Public accounting
 ___ Psychology ___ Veterinary medicine

IN TESTIMONY WHEREOF, the undersigned association has caused this Foreign Registration Statement to be signed by a duly authorized representative thereof 11th day of April, 2019
 this _____

Everstream Solutions LLC

 Name of Association

Christian Gartner

 Signature

Chief Financial Officer

 Title

**PENNSYLVANIA DEPARTMENT OF STATE
BUREAU OF CORPORATIONS AND CHARITABLE ORGANIZATIONS**

☐ Return document by mail to: Mark Iafrate Name _____ 124 W. Allegan, Suite 700 Address _____ Lansing MI 48933 City State Zip Code ☐ Return document by email to: _____	Registration of Fictitious Name DSCB:54-311 (rev.2/2017)  311

Read all instructions prior to completing. This form may be submitted online at <https://www.corporations.pa.gov/>.

Fee: \$70.00

☐ I qualify for a veteran/reservist-owned small business fee exemption (see instructions)

In compliance with the requirements of 54 Pa.C.S. § 311 (relating to registration), the undersigned entity(ies) desiring to register a fictitious name under 54 Pa.C.S. Ch. 3 (relating to fictitious names), hereby state(s) that:

1. The fictitious name is:
Everstream

2. A brief statement of the character or nature of the business or other activity to be carried on under or through the fictitious name is:
Providing dedicated point-to-point communications services.

3. The address, including number and street, if any, of the principal place of business (P.O. Box alone is not acceptable):

1228 Euclid Avenue, Suite 250	Cleveland	OH	44115	Out Of State
Number and street	City	State	Zip	County

4. The name and address, including number and street, if any, of each individual interested in the business is:

Name	Number and Street	City	State	Zip

5. Each entity, other than an individual, interested in such business is (are):

Everstream Solutions LLC	Limited Liability Company	OH
Name	Form of Organization	Organizing Jurisdiction
1228 Euclid Avenue, Suite 250, Cleveland, Out Of State, OH, United States, 44115		
Principal Office Address		
PA Registered Office, if any		

EXHIBIT B

CERTIFICATE OF ORGANIZATION – OHIO

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RECEIVED

SEP 29 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



DATE: 02/10/2014	DOCUMENT ID 201403801385	DESCRIPTION AMEND/ARTICLES-ORGANIZATION/DOM LLC (LAM)	FILING 50.00	EXPED .00	PENALTY	CERT 00	COPY .00

Receipt

This is not a bill. Please do not remit payment.

THOMPSON HINE LLP
ATTN:CAROL R. RUSSELL
41 S. HIGH ST., #1700
COLUMBUS, OH 43215

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2135708

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

EVERSTREAM SOLUTIONS LLC

and, that said business records show the filing and recording of:

Document(s)

Document No(s):

AMEND/ARTICLES-ORGANIZATION/DOM. LLC

201403801385

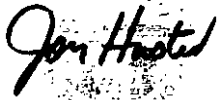
Effective Date: 02/05/2014



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of
the Secretary of State at Columbus,
Ohio this 10th day of February,
A.D. 2014.

Ohio Secretary of State



Form 543A Prescribed by:
Ohio Secretary of State
JON HUSTED
Ohio Secretary of State

Central Ohio: (614) 466-3910
Toll Free: (877) SOS-FILE (767-3453)
www.OhioSecretaryofState.gov
Busserv@OhioSecretaryofState.gov

Mail this form to one of the following:

Regular Filing (non expedite)
P.O. Box 1329
Columbus, OH 43216

Expedite Filing (Two-business day processing
time requires an additional \$100.00).
P.O. Box 1390
Columbus, OH 43216

**Domestic Limited Liability Company Certificate of
Amendment or Restatement**
Filing Fee: \$50

(CHECK ONLY ONE (1) BOX)

(1) Domestic Limited Liability Company

☒ Amendment (129-LAM)

09/13/2012

Date of Formation

(2) Domestic Limited Liability Company

☐ Restatement (142-LRA)

Date of Formation

The undersigned authorized representative of:

1C Network Services, LLC

Name of limited liability company

2135708

Registration Number

If box (1) Amendment is checked, only complete sections that apply. If box (2) Restatement is checked, all sections below must be completed.

The name of said limited liability company shall be:

Everstream Solutions LLC

Name must include one of the following words or abbreviations: "limited liability company," "limited," "LLC," "L.L.C.,"
"Ltd" or "Ltd"

This limited liability company shall exist for a period of:

Period of Existence

Purpose

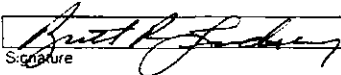
By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Must be signed by a member, manager or other representative

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box


Signature

By (if applicable)

Brett R. Lindsey, President
Print Name

Signature

By (if applicable)

Print Name

Signature

By (if applicable)

Print Name



DATE	DOCUMENT ID	DESCRIPTION	FILING	EXPED	PENALTY	CERT	COPY
09/14/2012	201225800167	DOMESTIC FOR PROFIT LLC - ARTICLES OF ORG (LCP)	125.00	200.00		00	00

Receipt

This is not a bill. Please do not remit payment.

THOMPSON HINE LLP
ATTN: CAROL R. RUSSELL
41 S. HIGH ST., #1700
COLUMBUS, OH 43215

**STATE OF OHIO
CERTIFICATE**

Ohio Secretary of State, Jon Husted

2135708

It is hereby certified that the Secretary of State of Ohio has custody of the business records for

1C NETWORK SERVICES, LLC

and, that said business records show the filing and recording of:

Document(s):

Document No(s):

DOMESTIC FOR PROFIT LLC - ARTICLES OF ORG

201225800167



United States of America
State of Ohio
Office of the Secretary of State

Witness my hand and the seal of the
Secretary of State at Columbus,
Ohio this 13th day of September,
A.D. 2012.

Ohio Secretary of State



Form 633A Prescribed by the:
Ohio Secretary of State
Central Ohio: (614) 486-3910
Toll Free: (877) BOS-FILE (767-3453)
www.OhioSecretaryofState.gov
Bursery@OhioSecretaryofState.gov

Mail this form to one of the following:
Regular Filing (non expedite)
P.O. Box 670
Columbus, OH 43216
Expedite Filing (Two-business day processing
time requires an additional \$100.00).
P.O. Box 1390
Columbus, OH 43216

**Articles of Organization for a Domestic
Limited Liability Company**
Filing Fee: \$125

CHECK ONLY ONE (1) BOX

(1) ☒ Articles of Organization for Domestic
For-Profit Limited Liability Company
(115-LCA)

(2) ☐ Articles of Organization for Domestic
Nonprofit Limited Liability Company
(115-LCA)

Name of Limited Liability Company **TC Network Services, LLC**

Name must include one of the following words or abbreviations: "limited liability company," "limited," "LLC," "L.L.C.," "ltd.," or "llc"

Effective Date (Optional) (The legal existence of the limited liability company begins upon the filing
of the articles or on a later date specified that is not more than ninety days
after filing)
mm/dd/yyyy

This limited liability company shall exist for (Optional)
Period of Existence

Purpose (Optional)

****Note for Nonprofit LLCs**

The Secretary of State does not grant tax exempt status. Filing with our office is not sufficient to obtain state or federal tax
exemptions. Contact the Ohio Department of Taxation and the Internal Revenue Service to ensure that the nonprofit
limited liability company secures the proper state and federal tax exemptions. These agencies may require that a purpose
clause be provided.

ORIGINAL APPOINTMENT OF AGENT

The undersigned authorized member(s), manager(s) or representative(s) of

1C Network Services, LLC

Name of Limited Liability Company

hereby appoint the following to be Statutory Agent upon whom any process, notice or demand required or permitted by statute to be served upon the limited liability company may be served. The name and address of the agent is

CT Corporation System

Name of Agent

1300 East Ninth Street

Mailing Address

Cleveland

City

Ohio

State

44114

ZIP Code

ACCEPTANCE OF APPOINTMENT

The undersigned, named herein as the statutory agent for

1C Network Services, LLC

Name of Limited Liability Company

hereby acknowledges and accepts the appointment of agent for said limited liability company



Joyce Gilbert, Asst. Secretary

Individual Agent's Signature / Signature on Behalf of Corporate Agent

☐ If the agent is an individual and using a P.O. Box, check this box to confirm that the agent is an Ohio resident.

By signing and submitting this form to the Ohio Secretary of State, the undersigned hereby certifies that he or she has the requisite authority to execute this document.

Required

Articles and original appointment of agent must be signed by a member, manager or other representative.

If authorized representative is an individual, then they must sign in the "signature" box and print their name in the "Print Name" box.

If authorized representative is a business entity, not an individual, then please print the business name in the "signature" box, an authorized representative of the business entity must sign in the "By" box and print their name in the "Print Name" box.

1C Corporation

Signature

Brett R. Lindsay

By (if applicable)

Brett R. Lindsay

Print Name

Signature

By (if applicable)

Print Name

Signature

By (if applicable)

Print Name

RECEIVED

OCT 1 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAUEXHIBIT C
BIOGRAPHICAL INFORMATION

OFFICERS

Brett Lindsey, President and Chief Executive Officer

blindsey@everstream.net

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Brett Lindsey was named President and CEO of Everstream in 2014. In 2018, Brett facilitated the sale of Everstream to AMP Capital, a global investment manager headquartered in London. With this investment, Everstream has expanded its network into new markets, including Chicago, Columbus, Milwaukee and Indianapolis, and announced strategic acquisitions in Detroit, Indianapolis and St. Louis. In 2016-2017, Brett more than tripled the size of the organization within less than 12 months with two Michigan-based acquisitions. Previously as Chief Operations Officer of OneCommunity, Brett oversaw the \$100 million expansion of the network that became Everstream. Brett brings more than 25 years of experience in successful operations management and business development efforts for venture-backed organizations to the Fortune 500. He has extensive experience in the telecom industry, having served as President of Elantic Telecom and Chief Operations Officer of Vox Mobile. Brett also held management positions with City Signal Communications, Qwest Communications, XO Communications and Williams Communication Systems.

Christian Gartner, Chief Financial Officer

cgartner@everstream.net

Christian Gartner joined Everstream in 2016 as Chief Financial Officer with responsibilities for leading the financial management of the company, including the administration and reconciliation of Everstream's investment portfolio, asset/liability system and other financial activities. With more than 25 years of experience, Christian served as CFO for a decade in telecommunications and spent 10 years with a \$4.5 billion multinational transportation company. He has assisted with numerous acquisitions and divestitures, helping to finance nearly \$6 billion in deals to date. Christian holds an MBA in Finance from Xavier University and a bachelor's degree in Accounting from Miami University. He also is a Certified Public Accountant.

Chuck Girt, Chief Technology Officer

cgirt@everstream.net

As the Chief Technology Officer, Chuck Girt is responsible for the development, growth and management of the Everstream network infrastructure. Previously, Chuck served as Chief Technology Officer for OneCommunity, a nonprofit organization dedicated to transforming Northeast Ohio's economy. He also has held engineering and technology positions throughout his career, including National Director of Engineering and Operations for Adelphia Commercial Services as well as Director of Midwest Operations

and Core Developer for Northpoint DSL. Chuck holds a PhD in Theoretical Physics, a master's degree in Quantum Physics and a bachelor's degree in Electrical and Mechanical Engineering, all from the University of California at Berkeley.

Bill Major, Chief Revenue Officer

bmajor@everstream.net

Bill Major was named Everstream's Chief Revenue Officer in 2019. He joined the company in 2015 as Vice President of Sales and Marketing with responsibility for expanding and leading its enterprise, wholesale/carrier, and wireless sales efforts along with handling contract negotiations and day-to-day management. Under Bill's leadership, Everstream has delivered more than \$100 million in total contract value and grew its corporate footprint through two acquisitions in Michigan. Prior to joining Everstream, Bill was responsible for Enterprise Sales at Fibertech Networks (Lightower), with a territory that included Upstate New York, Indiana and market expansions in Ohio and Michigan. Throughout his more than 20-year career in telecommunications, sales and management, Bill has successfully held sales and operations leadership roles for several regional and national telecommunications companies.

Sarah Mugford, Chief Marketing Officer

smugford@everstream.net

Sarah Mugford, Chief Marketing Officer, joined Everstream in 2019 to lead the company's Marketing and Communications initiatives, including overall branding, content, communications, and messaging objectives both internally and externally. During her 14-year tenure with Charter Communications (formerly Time Warner Cable), Sarah served in a series of marketing leadership roles, each with increasing responsibility and oversight. Most recently, Sarah served as Vice President, Content and Lead Generation Marketing, where she was responsible for the strategy and execution of Spectrum Enterprise client acquisition campaigns. Her broad range of experience includes enterprise lead generation, client experience as well as digital, product, content and vertical marketing. Sarah earned a Bachelor of Business Administration in Marketing from Kent State University.

Drew Mullin, Executive Vice President, Corporate Development

dmullin@everstream.net

Drew Mullin, Executive Vice President, Corporate Development, joined Everstream in 2020. He leads a team charged with analyzing Everstream's network, new and existing markets, the broader industry and competitive landscape to build a cadence of decision-making that pushes Everstream to overachieve its goals. Drew has 20 years of experience in telecommunications, with a focus on leveraging fiber assets to obtain strong ROIs on capital. Prior to joining Everstream, he served as the Head of Business

Development and Strategy for Crown Castle. He also has held leadership positions with Lightower Networks and Global Crossing. Drew earned an MBA from the University of Rochester's Simon Business School and a bachelor's degree in Economics from St. Lawrence University.

Joe Pellegrini, Executive Vice President, Operations
jpellegrini@everstream.net

Joe Pellegrini was named Executive Vice President, Operations, in 2019. He joined Everstream in 2018 as Vice President of Operations to lead the company's operations management initiatives, including organic growth, strategic requirements and additional breadth of services. He has more 20 years of experience in telecommunications, wireless deployment, construction and management. Prior to joining Everstream, Joe served in key leadership roles for the Wireless Deployment team at Crown Castle (formerly Lightower and Fibertech Networks). Throughout his career, Joe has led cross-functional teams responsible for designing, implementing, mapping and tracking both wireline and wireless deployment while consistently meeting aggressive customer goals. He holds an associate degree in Engineering from Vermont Technical College.

BOARD OF DIRECTORS

Brett Lindsey, President and Chief Executive Officer, Everstream
Brett Lindsey was named President and CEO of Everstream in 2014. In 2018, Mr. Lindsey facilitated the sale of Everstream to AMP Capital, a global investment manager headquartered in Australia. With this investment, Everstream is working to expand its network through greenfield builds in new and existing markets as well as strategic acquisitions of fiber networks. Through the prior acquisitions of Great Lakes Comnet (GLC) and Comlink in June 2016 and Lynx Network Group in February 2017, Mr. Lindsey more than tripled the size of the organization within less than 12 months. Previously as Chief Operations Officer of OneCommunity, Mr. Lindsey oversaw the \$100 million expansion of the network that later became Everstream. Mr. Lindsey brings more than 25 years of experience in successful operations management and business development efforts for venture-backed organizations to the Fortune 500. He has extensive experience in the telecom industry, having served as President of Elantic Telecom and Chief Operations Officer of Vox Mobile. Mr. Lindsey also held management positions with City Signal Communications, Qwest Communications, XO Communications and Williams Communication Systems.

Matt Evans, BSc, BA (Hons), Partner, Global Head of Telecom Infrastructure and Global Co-Head of Origination, AMP Capital

Matt Evans is a Partner in the Global Origination team in Europe. Mr. Evans has extensive experience in the telecom infrastructure sector, and has responsibility for both origination of opportunities and transaction execution. He was responsible for the acquisitions of eNet, Axion, Angel Trains (2015 transaction), Convention Centre Dublin

and Towercom, and led the exit of the AMP Capital managed 5.5% stake in Thames Water. Before joining AMP Capital in 2013, Mr. Evans worked for Macquarie Capital Advisors, the investment banking arm of the Macquarie Group, for 14 years. Most recently, he served as a managing director in the London office responsible for telecom infrastructure coverage. Previously, he was based in the Middle East (2009-2011) and New York (2006-2009). Mr. Evans has a Bachelor of Science degree and a Bachelor of Arts with Honors degree from the University of Waikato in New Zealand.

Jeff Gaillard, MBA, Senior Advisor, Communications, North America, AMP Capital

Jeff Gaillard is an accomplished entrepreneur and corporate executive with more than 20 years of experience growing technology businesses, including work with Fortune 500 companies, startups, consulting firms and private equity firms. Mr. Gaillard is currently a Senior Advisor at AMP Capital. Previously he served as Chief Marketing Officer for Flexential, a leading provider of North American data center and cloud solutions. He also served as President of Zayo Colocation and led the European and North American colocation and fiber businesses at Level 3 Communications. Mr. Gaillard serves on the boards of Everstream, Expedient, and Bonfire Engineering & Construction. He also is an Adjunct Professor in the Information and Communications Technology graduate degree program at the University of Denver. Mr. Gaillard earned an MBA with high distinction from the Tuck School of Business at Dartmouth College and is a Phi Beta Kappa graduate of Dartmouth College.

Sam Sixt, Vice President in the New York Investment Team, AMP Capital

Sam Sixt is a Vice President in the New York Investment Team with AMP Capital. He was responsible for the acquisitions of both Everstream and Expedient, AMP Capital's North American fiber optic and data center platforms. In addition to transaction origination and execution, he is actively involved in the day to day asset management responsibilities for both Everstream and Expedient and sits on the boards of each. Mr. Sixt has been with AMP Capital for four years with a primary focus on the telecommunications sector. He started his career as an analyst in the Investment Banking arm of Macquarie Group, Macquarie Capital, within their Infrastructure Team in New York. Mr. Sixt holds a Bachelor of Arts degree in Finance from the McCombs School of Business at the University of Texas at Austin.

**EXHIBIT D
PROPOSED TARIFF**

RECEIVED

OCT 1 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RECEIVED

SEP 28 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMPETITIVE ACCESS PROVIDER TARIFF

COMPETITIVE ACCESS PROVIDER TARIFF

Provided by

Everstream Solutions LLC 1228
Euclid Avenue, #250
Cleveland, OH 44115

Applying to Dedicated Point-To-Point Communications Services
Between Points in the Commonwealth of Pennsylvania
and Containing Rates, Rules and Regulations Governing Service

Any provisions contained in this Tariff
that are inconsistent with State and Federal laws
will be deemed inoperative and suspended.

Issued

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List of Modifications

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CHECK PAGE

Pages of this tariff as listed below are effective as of the date shown at the bottom of the respective page(s). Original and revised pages as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

Page	Number of Revision	Page	Number of Revision
1	Original*	26	Original*
2	Original*	27	Original*
3	Original*	28	Original*
4	Original*	29	Original*
5	Original*	30	Original*
6	Original*	31	Original*
7	Original*	32	Original*
8	Original*	33	Original*
9	Original*	34	Original*
10	Original*	35	Original*
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16	Original*		
17	Original*		
18	Original*		
19	Original*		
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21	Original*		
22	Original*		
23	Original*		
24	Original*		
25	Original*		

* Included in this filing

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COMPETITIVE ACCESS PROVIDER TARIFF

TARIFF FORMAT

This tariff is divided into the following major sections:

Section 1: Definitions
Section 2: Rules and Regulations
Section 3: Rate Schedules

- A. **Page Numbering:** Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added. For example, a new page added between pages 14 and 15 would 14.1.
- B. **Page Revision Numbers:** Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Pennsylvania Public Utility Commission. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of various suspension periods, deferrals, etc., the Pennsylvania Public Utility Commission follows in its tariff approval process, the most current page number on file with the Pennsylvania Public Utility Commission is not always the tariff page in effect. Consult the Check Page for the page currently in effect.
- C. **Paragraph Numbering Sequence:** There are seven levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2
 - 2.1
 - 2.1.1
 - 2.1.1.1
 - 2.1.1.1.1
 - 2.1.1.1.1.1
 - 2.1.1.1.1.1.1
- D. **Check Pages:** When a tariff filing is made with the Pennsylvania Public Utility Commission, an updated check page accompanies the tariff filing. The check page lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check page is changed to reflect the revision.

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COMPETITIVE ACCESS PROVIDER TARIFF

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COMPETITIVE ACCESS PROVIDER TARIFF

Preliminary Statement

This tariff governs the service offerings, rates, terms and conditions applicable to the furnishing of Competitive Access Provider ("CAP") Services by Everstream Solutions LLC (referred to herein as "Company" or "Everstream") that originate and terminate in Pennsylvania. Service is offered for dedicated point-to-point circuits pursuant to the terms of this tariff. Descriptions applicable to specific offerings are found in the Rate Schedules of this tariff. Service is not offered or available for purchase by residential and/or business end users. Service is available 24 hours per day, seven days per week and is subject to the availability of necessary equipment and facilities and the economic feasibility of providing such necessary equipment and facilities. Services are offered via the Company's facilities (whether owned, leased, or under contract), and may be provided in combination with services provided by other carriers.

This tariff is on file with the Pennsylvania Public Utility Commission, and copies may be inspected during normal business hours at the Company's principal place of business and business office located at 1228 Euclid Avenue, #250, Cleveland, Ohio 44115. This tariff is intended to be in conformance with all applicable State and Federal laws (including, but not limited to, 52 Pa. Code, 66 Pa C.S., and the Telecommunications Act of 1996), and with the Commission's applicable Rules and Regulations and Orders. Any provisions contained in this tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.

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EXPLANATION OF SYMBOLS

(D) Decrease

(I) Increased

(C) Change

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COMPETITIVE ACCESS PROVIDER TARIFF

1 DEFINITIONS

Advance Payment: Part or all of a payment required before the start of service.

Business Hours: The time after 8:00 a.m and before 5:00 p.m., Monday through Friday, excluding Holidays.

Business Office: The primary location where the business operations of Company are performed and where the Company makes a copy of the Company's tariff available for public inspection. The address of the business is: 1228 Euclid Avenue, #250, Cleveland, OH 44115.

Commission or PA PUC: The Pennsylvania Public Utility Commission.

Common Carrier: An authorized company or entity providing telecommunications services to the public.

Company: The term "Company" means Everstream Solutions LLC.

Customer: The person, firm or corporation that orders service and is responsible for the payment of charges and compliance with the terms and conditions of this tariff.

Customer Premises: A location designated by the Customer for the purposes of connecting to the Company's services.

Dark Fiber: Unactivated optical fiber deployed without optoelectronics and through which no light is transmitted and no signal is carried.

Dim Fiber: Unactivated optical fiber deployed with optoelectronics on one end owned by the customer, and on one end owned by the Company, and which may carry signals.

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COMPETITIVE ACCESS PROVIDER TARIFF

1 DEFINITIONS

Head End: A physical location, building or structure used to house the Company equipment and Customer equipment used to transfer originating and terminating traffic between Company and Customer.

Holiday: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. When holidays fall on Saturdays or Sundays, the holiday rate applies unless a larger discount would normally apply.

Individual Case Basis ("ICB"): Customer-specific arrangements that may vary from tariff in rates, terms and/or conditions according to Customer-specific requirements and service-specific parameters.

Interruption: The inability to complete calls due to equipment malfunctions or human errors. Interruption shall not include the failure of any service or facilities provided by a Common Carrier or other entity other than the Company. Any Interruption allowance provided within this tariff by Company shall not apply where service is interrupted by the negligence or willful act of the Customer, or where the Company, pursuant to the terms of this tariff, terminates service because of non-payment of bills, unlawful or improper use of the Company's facilities or service, or any other reason covered by this tariff or by applicable law.

Lambda: A specific wavelength on a fiber optic system.

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1 DEFINITIONS (cont'd.)

Non-Business Hours: The time period after 5:00p.m. and before 8:00a.m., Monday through Friday, and all day Saturday, Sunday, and Holidays.

Nonrecurring Charges: Charges to the Customer for services and equipment, assessed by the Company once, usually at the origination or termination of services, and/or installation of equipment.

Permanent Virtual Circuit ("PVC"): A bi-directional transmission path of variable bandwidth that carries RF traffic between a Company Head End and one or more remote Point(s) of Presence, provisioned on a Company-provided DAS.

Point of Presence ("POP"): A physical location at the remote end (i.e., non-Head End) of a PVC that hosts Company and/or Customer RF/optical conversion, fiber interconnect, and/or multiplexing equipment that is connected to the fiber optic system carrying the PVC.

Recurring Charges: Monthly, quarterly or other periodic charges to the Customer for services and equipment, which continue for the agreed-upon duration of the service.

SONET: Synchronous Optical Network standard for optical telecommunications transport services developed by the American National Standards Institute.

Service: Any service or services, singly or in any combination, offered pursuant to the terms of this tariff.

Telecommunications: The transmission of voice and/or data communications between two points.

Timely Payment: A payment on Customer's account made on or before the due date.

Term Agreement: An agreement between the Company and the Customer for a fixed period of time.

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COMPETITIVE ACCESS PROVIDER TARIFF

2 RULES AND REGULATIONS**2.1 UNDERTAKING OF THE COMPANY**

- 2.1.1** The Company's services are furnished for telecommunications services originating and terminating within the Commonwealth of Pennsylvania.
- 2.1.2** The Company is a facilities-based and resale provider of telecommunications to Customers for the direct transmission and reception of voice, data, and other types of communications. Services are offered via the Company's facilities (whether owned, leased, or under contract), and may be provided in combination with services provided by other certificated carriers. The Company is responsible under this tariff only for the services and facilities the Company provides hereunder.
- 2.1.3** The Company's services are provided on a monthly basis unless otherwise provided, and are available twenty-four (24) hours per day, seven (7) days per week, subject to the availability of necessary service, equipment and facilities and the economic feasibility of providing such necessary service, equipment, and facilities.

2.2 SHORTAGE OF FACILITIES OR EQUIPMENT AND OTHER LIMITATIONS

- 2.2.1** The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of lack of facilities, or due to some other cause beyond the Company's control.
- 2.2.2** The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

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2 RULES AND REGULATIONS (cont'd.)**2.3 TERMS AND CONDITIONS**

- 2.3.1** A Service may be initiated only based on a written agreement between the Company and the Customer. To initiate a service request, the Customer must provide the following information: the Customer's name; an address to which the Company shall provide service; and a billing address (if different). The service application does not itself bind either the Customer to subscribe to the service or the Company to provide the service.
- 2.3.2** Request for service under this tariff will authorize the Company to conduct a credit search on the Customer. The Company reserves the right to refuse service on the basis of credit history unless the Customer pays a deposit, and to refuse further service due to late payment or nonpayment by the Customer. Potential customers who are denied service must be given the reason for the denial in writing within 10 days of service denial.

2.4 LIMITATIONS ON LIABILITY

- 2.4.1** In view of the fact that the Customer has exclusive control over the use of service and facilities furnished by the Company, and because certain errors incident to the services and to the use of such facilities of the Company are unavoidable, services and facilities are furnished by the Company subject to the terms, conditions and limitations herein specified:

2.4.1.1 Service Irregularities

- 2.4.1.1.1** The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of the Customer, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the service or facilities affected during the period such mistake, omission, interruption, delay, error or defect in transmission, or failure or defect in facilities continues after notice and demand to the Company.

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2 RULES AND REGULATIONS (cont'd.)**2.4 LIMITATIONS ON LIABILITY (cont'd)**

2.4.1.1.2 The Company shall not be liable for any act or omission of any connecting carrier, underlying carrier or local exchange company except where Company contracts with the other carrier; for acts or omissions of any other providers of connections, facilities, or service; or for culpable conduct of the Customer or failure of equipment, facilities or connection provided by the Customer.

2.4.1.1.3 The Company shall not be liable for any failure of performance due to causes beyond its control, including but not limited to cable dig-up by third party, acts of God, civil disorders, actions of governmental authorities, actions of civil or military authority, labor problems, national emergency, insurrection, riots, war, fire, flood, and atmospheric conditions or other phenomena of nature, such as radiation. In addition, the Company will not be liable for any failure of performance due to necessary Network reconfiguration, system modifications for technical upgrades, or actions taken by any court or government agency having jurisdiction over the Company.

2.4.1.2 Claims of Misuse of Service:

2.4.1.2.1 The Company shall be indemnified and saved harmless by the Customer against claims for libel, slander, fraudulent or misleading advertisements or infringement of copyright arising directly or indirectly from material transmitted over its facilities or the use thereof; against claims for infringement of patents arising from combining or using apparatus and systems of the Customer with facilities of the Company; and against all other claims arising out of any act or omission of the Customer in connection with the services and facilities provided by the Company.

2.4.1.2.2 The Company does not require indemnification from the Customer where the action for which it is seeking indemnification is based on a claim of negligence by the Company.

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2 RULES AND REGULATIONS (cont'd.)**2.4 LIMITATIONS ON LIABILITY (cont'd)****2.4.1.3 Defacement of Premises**

2.4.1.3.1 The Company is not liable for any defacement of, or damage to, the Customer's Premises resulting from the furnishing of service or the attachment of equipment and facilities furnished by the Company on such premises or by the installation or removal thereof, when such defacement or damage is not the result of negligence of the Company. For the purpose of this paragraph, no agents or employees of any other participating carrier(s) shall be deemed to be agents or employees of the Company except where contracted by the Company.

2.4.1.4 Facilities and Equipment in Explosive Atmosphere, Hazardous or Inaccessible Locations

2.4.1.4.1 The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. Company shall be indemnified, defended and held harmless by Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service and not due to the gross negligence or willful misconduct of the Company.

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2 RULES AND REGULATIONS (cont'd.)

2.4 LIMITATIONS ON LIABILITY (cont'd)

2.4.1.5 Service at Outdoor Locations

2.4.1.5.1 The Company reserves the right to refuse to provide, maintain or restore service at outdoor locations unless the Customer agrees in writing to indemnify and save the Company harmless from and against any and all loss or damage that may result to equipment and facilities furnished by the Company at such locations.

2.4.1.6 Warranties

2.4.1.6.1 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

2.4.1.6.2 Acceptance of the provisions of Section 2.4 by the Commission does not constitute its determination that any disclaimer of warranties or representations imposed by the Company should be upheld in a court of law.

2.4.1.7 Scope of liability

2.4.1.7.1 Nothing in this tariff shall be construed to limit the Company's liability in cases of gross negligence or willful misconduct.

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2. RULES AND REGULATIONS (cont'd.)**2.5 OWNERSHIP OF FACILITIES**

- 2.5.1** Title to all facilities provided in accordance with this tariff remains in the Company, its agents, contractors or suppliers.

2.6 PROHIBITED USES

- 2.6.1** The services the Company offers shall not be used for any unlawful purpose or for any use for which the Customer has not obtained all required governmental approvals, authorization, licenses, consents and permits.
- 2.6.2** The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and regulations, policies, orders, and decisions.
- 2.6.3** The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- 2.6.4** A Customer or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated access services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this tariff will apply. Additionally, Customer may be liable for termination charges if Customer terminates any contract prior to expiration of its term.

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2. RULES AND REGULATIONS (cont'd.)**2.7 OBLIGATIONS OF THE CUSTOMER**

The Customer shall be responsible for:

- 2.7.1 placing any necessary Service Orders; complying with tariff terms and conditions; for assuring that users comply with tariff regulations; and for payment of charges for calls originated from the Customer's telephone lines;
- 2.7.2 arranging access to its premises at times mutually agreeable to Company and the Customer when required for installation, repair, maintenance, inspection or removal of equipment associated with the provision of Company services;
- 2.7.3 maintaining its equipment and facilities in good operating condition. The Customer is liable for any loss, including loss through theft, of any Company equipment installed at the Customer's premises.

2.8 INTERCONNECTION OF FACILITIES

- 2.8.1 A Service furnished by Company may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to the technical limitations established by Company. Any special interface of equipment or facilities necessary to achieve compatibility between the facilities of Company and other participating carriers shall be provided at the Customer's expense.
- 2.8.2 Interconnection between the facilities or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs. The Customer is responsible for taking all necessary legal steps for interconnecting Customer-provided equipment with Company's facilities. The Customer shall secure all licenses, permits, rights-of-way and other such arrangements necessary for interconnection.

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2. RULES AND REGULATIONS (cont'd.)**2.9 CUSTOMER ADVANCE PAYMENTS AND DEPOSITS****2.9.1 Advance Payments**

2.9.1.1 The Company reserves the right to require from an applicant for service advance payments for the construction of facilities and furnishing of special equipment. The advance payment will not exceed an amount equal to the nonrecurring charge(s) and one month's charges for the service or facility. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated nonrecurring charges for the special construction. The advance payment will be applied to any indebtedness for the service and facilities for which the advance payment is made on the Customer's initial bill.

2.9.1.2 Advance payments for installation costs or special construction will be credited on the first bill in their entirety.

2.9.2 Deposits

2.9.2.1 The Company may, at its sole discretion, require a deposit or usage prepayment as a condition to Customer's receiving new service or additional service. The Company reserves the right to review an applicant's or a Customer's credit history at any time to determine if a deposit is required.

2.9.2.2 In the event the Customer fails to establish a satisfactory credit history, deposits are a form of security that may be required from Customers to ensure payment of bills.

2.9.2.3 Deposits shall be no greater than twice the estimated average monthly bill for the class of service applied for.

2.9.2.4 Deposits will bear interest at the rate of 6% per annum. Deposits will be refunded with interest within 30 days after discontinuance of service or after 12 months of service, whichever comes first. Interest on deposits are payable at the rate of the average 1-year US Treasury bills for September, October, and November of the previous year without deduction for any taxes on such deposits. Interest will not accrue on any deposits after the date on which reasonable effort has been made to return it to the customer.

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2. RULES AND REGULATIONS (cont'd.)

2.10 PAYMENT ARRANGEMENTS

2.10.1 Payment for Service

2.10.1.1 The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

2.10.2 Taxes

2.10.2.1 Appropriate federal, state, local and municipal taxes and surcharges will be charged on Services and are in addition to the rates for Service set forth in this tariff unless otherwise stated.

2.10.2.2 Customers shall pay all sales, use, gross receipts, excise, access, bypass, or other local, state and Federal taxes, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the services (excluding taxes on the Company's net income). Such taxes shall be separately stated on the applicable invoice.

2.10.2.3 When a municipal corporation or other political subdivision of the state collects from the Company a license tax, privilege tax, street use tax, franchise fee, permit fee, or any tax, exaction, or fee measured by poles, wires, conduits, manholes, telephones, other units of plant, income or activities as a public service corporation, such taxes, exactions and fees shall, insofar as practicable, be billed pro rata to the Customers receiving service within the territorial limits of the municipal corporation or political subdivision.

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Issued by:
Brett Lindsey, President & CEO
1228 Euclid Avenue, #250
Cleveland, OH 44115

Effective:

COMPETITIVE ACCESS PROVIDER TARIFF

2 RULES AND REGULATIONS (cont'd.)

2.11 BILLING AND COLLECTION OF CHARGES

- 2.11.1** The Customer is responsible for payment of all charges incurred by the Customer for services and facilities furnished to the Customer by the Company. The Company is not responsible for any telephone charges that may be incurred by the Customer in gaining access to the Company's Network.
- 2.11.2** Charges for service are applied on a recurring basis. Service is provided and billed on a monthly (30 day) basis. Months are presumed to have 30 days. The billing date is dependent on the billing cycle assigned to the Subscriber. Service continues to be provided for the minimum service term.
- 2.11.3** Billing is payable upon receipt and past due thirty (30) days after issuance and posting of invoice. Bills not paid within thirty-one (31) days after the date of posting are subject to a 1.25 percent per month late payment charge for any unpaid balance. The late payment date will be prominently displayed on the Customer's bill. Company shall endeavor to credit payments within 24 hours of receipt to avoid assessing late payment charges incorrectly.
- 2.11.4** Monthly recurring charges that are not usage-sensitive are billed monthly in advance. Usage charges are billed monthly in arrears. In the event the Company changes its rates, recurring monthly charges affected by such change will be assessed at the new rate for the full billing period during which the new recurring charge rate became effective.

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2 RULES AND REGULATIONS (cont'd.)**2.11 BILLING AND COLLECTION OF CHARGES (cont'd)**

2.11.5 If the Company hires a collection agency to collect, or attempt to collect, any charges owed, the Customer will be liable to the Company for an additional payment equal to 35% of the charges owed, where permitted by applicable law. If the Company incurs any fees or expenses, including attorneys' fees, in collecting, or attempting to collect, any charges owed the Company other than by hiring a collection agency, the Customer will be liable to the Company for the payment of all such fees and expenses reasonably incurred.

2.11.6 The Company does not offer service to residential customers. In the event that the Company offers services to residential customers in the future, it will comply with the requirements of Chapter 64 in 52 Pa. Code regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail.

2.12 BILLING DISPUTES**2.12.1 General**

2.12.1.1 Billing disputes should be addressed to Company's customer service organization via telephone to 866-624-8624. Customer service representatives are available from 9:00 AM to 5:00PM Eastern Time. Messages may be left for Customer Service from 5:00 PM to 9:00AM Eastern Time, which will be answered on the next business day, except in the event of an emergency which threatens customer service, in which case Customer Service Staff may be paged.

2.12.1.2 The undisputed portions of the bill must be paid by the payment due date shown on the bill to avoid assessment of a late payment charge on the undisputed amount under Section 2.11.3, preceding.

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2 RULES AND REGULATIONS (cont'd.)**2.12 BILLING DISPUTES (cont'd)****2.12.2 Adjustments or Refunds to the Customer**

- 2.12.2.1** In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- 2.12.2.2** In the event the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- 2.12.2.3** In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment by the Customer.
- 2.12.2.4** All adjustments or refunds provided by the Company to the Customer at the Customer's request, or provided by the Company to the Customer by way of compromise of a billing dispute, and which are accepted by the Customer, are final and constitute full satisfaction, settlement, and/or compromise of all of the Customer's claims for the billing period for which the adjustment or refund was issued.

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2 RULES AND REGULATIONS (cont'd.)

2.13 UNRESOLVED BILLING DISPUTES

2.13.1 In the case of a billing dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer can take the following course of action:

2.13.1.1 First, the Customer may request and the Company will provide an in-depth review of the disputed amount. The undisputed portion and subsequent bills must be paid on a timely basis or the service may be subject to disconnection.

2.13.1.2 Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

Pennsylvania Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265
Telephone: 1-800-692-7380

2.13.1.3 In order to avoid suspension of service and late payment charges, the disputed amount must be paid within fourteen (14) calendar days after the date the Company notifies the Customer that the investigation and review are completed and that such payment must be made or service will be interrupted. However, the Company will not suspend service prior to the payment due date as shown on the bill.

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2 RULES AND REGULATIONS (cont'd.)**2.14 DISCONTINUANCE OF SERVICE**

2.14.1 Upon violation of any of the material terms or conditions for furnishing service, the Company shall mail or deliver written notice to the Customer at least seven (7) days before the date of the proposed suspension. When at least ten (10) days have passed since suspension of service, the Company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension.

2.14.2 Service may be suspended by written notice for any of the following reasons:

2.14.2.1 Nonpayment of any sum due to the Company for service more than thirty (30) days beyond the date of the invoice for such service. In the event the Company terminates service for nonpayment, the Customer may be liable for all reasonable court costs as determined by the Court.

2.14.2.2 By reason of any order or decision of a court or any other governmental authority which prohibits the Company from furnishing such service.

2.14.2.3 Failure to post a required deposit or guarantee.

2.14.2.4 Unlawful use of the service or use of the service for unlawful purposes.

2.14.2.5 Violation of, or failure to comply with, any regulation or condition governing the furnishing of service.

2.14.2.6 If the Company deems such refusal necessary to protect itself or third parties against fraud or to otherwise protect its personnel, agents, facilities or services.

2.14.2.7 If the Customer provides false information to the Company regarding the Customer's identity, address, creditworthiness, or past, current or planned use of Company's services.

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2 RULES AND REGULATIONS (cont'd.)**2.14 DISCONTINUANCE OF SERVICE (cont'd.)**

2.14.3 The Company may suspend service without prior notice if it is based on an occurrence that endangers the safety of a person or appears likely to prove physically harmful to the service delivery system. At the time of suspension, the Company shall mail a notice of suspension to the Customer's billing address.

2.14.4 Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.

2.15 RESTORATION OF SERVICE

2.15.1 The Customer may restore service by full payment in any reasonable manner including by personal check. However, the Company may refuse to accept a personal check if a Customer's check for payment of service has been dishonored, excepting bank error, within the last twelve months. There is a \$35.00 charge for restoration of service after disconnection; if, however, the equipment necessary for service has been removed, the non-recurring fee will apply.

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2 RULES AND REGULATIONS (cont'd.)**2.16 NOTICE TO COMPANY FOR CANCELLATION OF SERVICE**

- 2.16.1** Customer may cancel service by providing written notice to Company five (5) days prior to cancellation. However, Customer may not cancel service prior to expiration of the initial one (1) year term.
- 2.16.2** Customer is responsible for charges while still connected to the Company's service and the payment of associated local exchange company charges, if any, for service charges.
- 2.16.3** Any non-recoverable cost of Company expenditures shall be borne by the Customer if:
- 2.16.3.1** Customer orders service requiring special facilities dedicated to the Customer's use and then cancels the order before such service begins, before completion of the minimum period or before completion of some period mutually agreed with the Customer for the non-recoverable portions of expenditures; or
 - 2.16.3.2** Liabilities are incurred expressly on behalf of the Customer by Company and not fully reimbursed by installation and monthly charges; or
 - 2.16.3.3** Customer has ordered service and construction has either begun or has been completed, but no service provided.

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COMPETITIVE ACCESS PROVIDER TARIFF

2 RULES AND REGULATIONS (cont'd.)

2.17 ALLOWANCES FOR INTERRUPTION IN SERVICE

- 2.17.1** A credit allowance will be given when service is interrupted, except as specified in Section 2.18 following. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a service, facility or circuit furnished by the Company under this tariff.
- 2.17.2** An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- 2.17.3** If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.

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COMPETITIVE ACCESS PROVIDER TARIFF

2 RULES AND REGULATIONS (cont'd.)

2.18 LIMITATIONS ON ALLOWANCES

2.18.1 No credit allowance will be made for any interruption in service:

- 2.18.1.1** Due to the negligence of or noncompliance with the provisions of this tariff by any person or entity other than the Company, including but not limited to the Customer or other common carriers connected to the service of the Company;
- 2.18.1.2** Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- 2.18.1.3** Due to circumstances or causes beyond the control of the Company;
- 2.18.1.4** During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- 2.18.1.5** During any period in which the Customer continues to use the service on an impaired basis;
- 2.18.1.6** During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- 2.18.1.7** That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; or
- 2.18.1.8** That was not reported to the Company within thirty (30) days of the date that service was affected.

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2 RULES AND REGULATIONS (cont'd.)**2.19 USE OF ANOTHER MEANS OF COMMUNICATIONS**

2.19.1 If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

2.20 APPLICATION OF CREDITS FOR INTERRUPTIONS IN SERVICE

2.20.1 Except as provided in Section 2.18 above, when main service is interrupted for a period of at least 24 hours, the Company shall provide credits to Customers at the following rate:

2.20.1.1 One-thirtieth of monthly rate for each of the first three full 24-hour periods.

2.20.1.2 Two-thirtieths of monthly rates for each full 24-hour period beyond the first three 24-hour periods.

2.20.1.3 However, in no instance shall the allowance for the out-of-service period exceed the total charges in a billing period for the service and facilities furnished by the Company that have been rendered useless or impaired

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3 RATE SCHEDULES

3.1 SCHEDULE 1: DEDICATED POINT-TO-POINT PERMANENT VIRTUAL CIRCUIT ("PVC") TRANSPORT SERVICE

3.1.1 Service Description

Dedicated Point-To-Point PVC Transport Service is available on the Company's Systems. Dedicated Point-To-Point PVC Transport Service begins at a Company Head End. Customers are responsible for providing or obtaining circuits to connect from their networks to the Company Head End. The Head End contains Customer's circuit terminating equipment, Base Transceiver Station and related peripheral equipment, as well as Company's and/or Customer's RF/Optical conversion equipment. The RF/Optical conversion equipment converts Customer's RF signals into optical signals, and places those signals into a PVC that traverses Company S network facilities between the Head End and one or more Points of Presence ("POPs").

3.1.2 Monthly Recurring Rate Elements

The following monthly recurring rate elements apply to Dedicated Point-To-Point PVC Transport Service:

3.1.2.1 Signal Conversion Rate

Signal Conversion Rates apply where Company owns the RF/optical conversion equipment. Signal Conversion Rates are not applicable when the Customer owns the RF/optical conversion equipment.

3.1.2.1.1 Local Signal Conversion Rate

A Local Signal Conversion Rates applies when the RF/optical conversion equipment located at the Head End is owned and operated by Company.

3.1.2.1.2 Remote Signal Conversion Rates

Remote Signal Conversion Rates apply when the RF/optical conversion equipment located at the POPs distributed throughout a Company network is owned and operated by Company.

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3. RATE SCHEDULES (cont'd.)**3.1.2.2 Committed Information Rate**

The Committed Information Rate ("CIR") of a PVC is the amount of bandwidth selected by Customer to carry the RF traffic that is optically converted and transported over the Company DAS network, stated in MegaHertz ("MHZ") and made available in Tiers (increments) of 5 MHZ to 60 MHZ per PVC.

3.1.2.3 Permanent Virtual Circuit ("PVC") Rate Elements

PVC Rate Elements relate to both the physical layer and the bandwidth required to create a PVC to transport Customer's CIR from the Head End to one or more POPs on the Company DAS network. The rate elements that will apply depend on the type of optical conversion and multiplexing methodology used to aggregate one or more Customer CIR Tiers over a PVC to one or more POPs.

3.1.2.3.1 Dedicated Strand Charge

The Dedicated Strand Charge applies to PVCs utilizing one or more dim or dark fibers between the Head End and the POP(s).

3.1.2.3.2 Wave Division Multiplexed ("WDM") Charge

The WDM Charge applies to PVCs utilizing one or more lambdas engineered with WDM technology and equipment on a fiber between the Head End and the POP(s). The WDM charge applies to all current and future variations of WDM, including but not limited to Coarse Wave and Dense Wave Division Multiplexing in both analog and digital transport topologies.

3.1.2.3.3 SONET Ring Charge

The SONET Ring Charge applies to a PVC deployed on a SONET ring network configuration, using Dedicated Strand(s) or WDM, engineered in a point to multi-point configuration. SONET Ring PVCs may be provisioned using customary add/drop, physical interconnect or WDM technology for both originating and terminating traffic, from a head end to one or more POPs connected to the SONET Ring.

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3. RATE SCHEDULES (cont'd.)

3.1.2.3.4 Add/Drop Charges

Add/Drop charges apply to each POP requested by Customer on a SONET Ring or point to multi-point PVC.

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3. RATE SCHEDULES (cont'd.)

3.1.3 Non-Recurring Rate Elements

The following non-recurring rate elements may apply to Dedicated Point-To-Point PVC Transport Service:

3.1.3.1 Lateral Construction Charge

A Lateral Construction Charge applies where POPs requested by Customer are to be integrated into a Company network and the cost of construction of the lateral and/or building riser facilities cannot reasonably be recovered by Company over the expected duration of service to Customer.

3.1.3.2 Lateral Connection Charge

A Lateral Connection Charge applies where POPs requested by Customer are to be integrated into a Company network and the cost of (i) interconnecting to circuits or facilities not owned by Company, and/or (ii) non-standard interconnection requested by Customer, cannot reasonably be recovered by Company over the expected duration of service to Customer.

3.1.3.3 Network Connection Charge

A Network Connection Charge applies where Company provides certain specified network integration and connection services to integrate and optimize the physical and virtual connections between Company and Customer equipment.

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3. RATE SCHEDULES (cont'd.)

3.1.4 Rates

All services are provided to business customers only on an individual contract basis (ICB)

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Cleveland, OH 44115

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3. RATE SCHEDULES (cont'd.)**3.2 SCHEDULE 2: COLLOCATION****3.1.1 Service Description**

Collocation service allows a Customer to place Customer's telecommunications equipment on certain of the Company's premises and within space allocated at the Company's Head Ends, in designated locations at such premises. Collocation shall be subject to the availability of appropriately sized and located space at such locations. The prices, terms and conditions of collocation shall be negotiated between the Company and Customer on a site-specific basis. The Company shall provide space that is appropriately conditioned for Customer's equipment.

3.1.2 Non-Recurring and Monthly Recurring Rates

ICB

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Cleveland, OH 44115

Effective:

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.3 SCHEDULE 3: SPECIAL CONSTRUCTION****3.3.1 Service Description**

Special construction or arrangement of facilities may be undertaken on a reasonable efforts basis at the request of the Customer, and upon a determination by the Company that such charges should apply in that particular instance. Special Construction is undertaken:

- (a) where facilities are not presently available;
- (b) where the service is of a type other than that which the Company would normally utilize in the furnishing of its service;
- (c) where the service is requested over a route other than that which the Company would normally utilize in the furnishing of its services;
- (d) where the service is in a quantity greater than that which the Company would normally provide;
- (e) where service is requested on an expedited basis;
- (f) where service is requested on a temporary basis until permanent facilities are available;
- (g) where the service requested involves abnormal costs; or
- (h) where service is requested in advance of the Company's normal construction schedule.

3.3.2 Non-Recurring and Monthly Recurring Rates

ICB

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Brett Lindsey, President & CEO
1228 Euclid Avenue, #250
Cleveland, OH 44115

Effective:

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.5 SCHEDULE 5: INDIVIDUAL CASE BASIS ("ICB") PRICING ARRANGEMENTS**

3.5.1 In lieu of the rates otherwise set forth in this tariff, rates and charges, including installation, special construction, and recurring charges, may be established at negotiated rates on an Individual Case Basis, taking into account such factors as the nature of the facilities and services, the costs of construction and operation, the volume of traffic commitment, and the length of service commitment by the Customer, as long as the rates and charges are not less than Company's costs of providing the service. Such arrangements shall be considered Specialized Pricing Arrangements, the terms of which will be set forth in individual contracts or customer term agreements. Specialized Pricing Arrangement rates or charges will be made available to similarly-situated customers on comparable terms and conditions. Upon reasonable request, Company will make the terms of these contracts available to the Commission and its staff for review on a confidential and proprietary basis.

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Issued by:
Brett Lindsey, President & CEO
1228 Euclid Avenue, #250
Cleveland, OH 44115

Effective:

**EXHIBIT F
CERTIFICATE OF SERVICE**

RECEIVED

OCT 1 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

RECEIVED

SEP 29 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

COMMONWEALTH OF PENNSYLVANIA

PUBLIC UTILITY COMMISSION

In the Matter of the Application of
EVERSTREAM SOLUTIONS, LLC
for authority to provide telecommunication
services in the Commonwealth of
Pennsylvania

Case No. _____

RECEIVED

OCT 1 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

PROOF OF SERVICE

STATE OF MICHIGAN)
) ss.
COUNTY OF INGHAM)

Jennifer Knox, being first duly sworn, deposes and says that she is an employee of Loomis, Ewert, Parsley, Davis & Gotting, P.C., and that on October 1, 2020, she served a copy of the Application of Everstream Solutions LLC for authority to provide telecommunication services in the Commonwealth of Pennsylvania upon:

Office of Consumer Advocate
555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Office of Small Business Advocate
Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

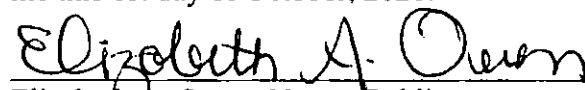
Office of Attorney General
Office of Consumer Protection
Strawberry Square
Harrisburg, PA 17120

by addressing an envelope to said person/entity at said address and by depositing the envelope in the first-class mail, postage thereon fully prepaid.



Jennifer Knox

Subscribed and sworn to before
me this 1st day of October, 2020.


Elizabeth A. Owen, Notary Public
Eaton County, Michigan
Acting in Ingham County, Michigan
My Commission expires: 06/25/2025

RECEIVED

SEP 29 2020

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

UPS CampusShip: View/Print Label

1. **Ensure there are no other shipping or tracking labels attached to your package.** Select the Print button on the print dialog box that appears. Note: If your browser does not support this function select Print from the File menu to print the label.
2. **Fold the printed label at the solid line below.** Place the label in a UPS Shipping Pouch. If you do not have a pouch, affix the folded label using clear plastic shipping tape over the entire label.
3. **GETTING YOUR SHIPMENT TO UPS**
Customers with a Daily Pickup
Your driver will pickup your shipment(s) as usual.

Customers without a Daily Pickup

Take your package to any location of The UPS Store®, UPS Access Point(TM) location, UPS Drop Box, UPS Customer Center, Staples® or Authorized Shipping Outlet near you. Items sent via UPS Return Services(SM) (including via Ground) are also accepted at Drop Boxes. To find the location nearest you, please visit the Resources area of CampusShip and select UPS Locations.
Schedule a same day or future day Pickup to have a UPS driver pickup all your CampusShip packages.
Hand the package to any UPS driver in your area.

UPS Access Point™
ADVANCE AUTO PARTS STORE #5980
1904 N LARCH ST
LANSING, MI 48906

UPS Access Point™
WESTLUND'S APPLE MARKET-AP437
2301 E GRAND RIVER AVE
LANSING, MI 48912

UPS Access Point™
THE UPS STORE
3105 S MARTIN LUTHER KING JR BLVD
LANSING, MI 48910

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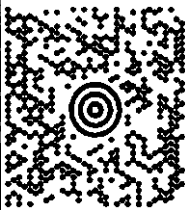
JENNIFER KNOX 517.318.9286 LOOMIS EWERT PARSLEY DAVIS 124 W ALLEGAN ST LANSING MI 48933	1.0 LBS LTR	1 OF 1
SHIP TO: ROSEMARY CHIAVETTA PENNSYLVANIA PUBLIC UTILITY COMMISS SECOND FLOOR - ROOM N201 400 NORTH STREET COMMONWEALTH KEYSTONE BUILDING HARRISBURG PA 17120-0200		
	PA 171 9-20 	
UPS NEXT DAY AIR TRACKING #: 1Z FF8 746 01 9650 4367		
		
BILLING: P/P		
Reference # 1: 254084-1 CS 22.0.12. WNTNV50 31.0A 0.1/2020*		
		

EXHIBIT TM-2



March 10, 2021

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: Everstream Solutions LLC Initial Tariff Filing
Docket Number A-2020-3022566

Dear Ms. Chiavetta:

Enclosed for filing is Everstream Solutions LLC's ("Everstream"), initial Competitive Access Provider Tariff designated as Pa. PUC Telephone Tariff No. 1. Everstream was approved by the Commission to provide telecommunications services in the Commonwealth of Pennsylvania as a Competitive Access Provider by an Order adopted and entered on February 25, 2021 ("Order") in the above referenced docket. In compliance with Ordering Paragraph 9 of the Order, included with this transmittal as Attachment 1 is Pa. PUC Telephone Tariff No. 1 - Competitive Access Provider Tariff, which is being filed to become effective on at least one (1) day notice bearing an issued date of March 10, 2021 and an effective date of March 11, 2021.

Also included herein is a Certificate of Service, indicating that the initial tariff has been served upon the same entities that received service of the original application.

Please acknowledge receipt and acceptance of this filing. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "C. Gartner", is written over a horizontal line.

Christian Gartner
Chief Financial Officer

Attachments

ATTACHMENT 1

Everstream Solutions LLC – Pa. PUC Telephone Tariff No. 1
Initial Competitive Access Provider Tariff

COMPETITIVE ACCESS PROVIDER TARIFF

COMPETITIVE ACCESS PROVIDER TARIFF

Provided by

Everstream Solutions LLC 1228
Euclid Avenue, #250
Cleveland, OH 44115

Applying to Dedicated Point-To-Point Communications Services
Between Points in the Commonwealth of Pennsylvania
and Containing Rates, Rules and Regulations Governing Service

Any provisions contained in this Tariff
that are inconsistent with State and Federal laws
will be deemed inoperative and suspended.

COMPETITIVE ACCESS PROVIDER TARIFF

List of Modifications

Issued: March 10, 2021

Issued by:
Brett Lindsey, President & CEO
1228 Euclid Avenue, #250
Cleveland, OH 44115

Effective: March 11, 2021

COMPETITIVE ACCESS PROVIDER TARIFF

CHECK PAGE

Pages of this tariff as listed below are effective as of the date shown at the bottom of the respective page(s). Original and revised pages as named below comprise all changes from the original tariff and are currently in effect as of the date on the bottom of this page.

Page	Number of Revision	Page	Number of Revision
Title	Original*	25	Original*
1	Original*	26	Original*
2	Original*	27	Original*
3	Original*	28	Original*
4	Original*	29	Original*
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* Included in this filing

Issued: March 10, 2021

Issued by:
Brett Lindsey, President & CEO
1228 Euclid Avenue, #250
Cleveland, OH 44115

Effective: March 11, 2021

COMPETITIVE ACCESS PROVIDER TARIFF

TARIFF FORMAT

This tariff is divided into the following major sections:

Section 1: Definitions
Section 2: Rules and Regulations
Section 3: Rate Schedules

- A. Page Numbering:** Page numbers appear in the upper right corner of the page. Pages are numbered sequentially. However, new pages are occasionally added to the tariff. When a new page is added between pages already in effect, a decimal is added. For example, a new page added between pages 14 and 15 would 14.1.
- B. Page Revision Numbers:** Revision numbers also appear in the upper right corner of each page. These numbers are used to determine the most current page version on file with the Pennsylvania Public Utility Commission. For example, the 4th revised Page 14 cancels the 3rd revised Page 14. Because of various suspension periods, deferrals, etc., the Pennsylvania Public Utility Commission follows in its tariff approval process, the most current page number on file with the Pennsylvania Public Utility Commission is not always the tariff page in effect. Consult the Check Page for the page currently in effect.
- C. Paragraph Numbering Sequence:** There are seven levels of paragraph coding. Each level of coding is subservient to its next higher level:
- 2
 - 2.1
 - 2.1.1
 - 2.1.1.1
 - 2.1.1.1.1
 - 2.1.1.1.1.1
 - 2.1.1.1.1.1.1
- D. Check Pages:** When a tariff filing is made with the Pennsylvania Public Utility Commission, an updated check page accompanies the tariff filing. The check page lists the pages contained in the tariff, with a cross reference to the current revision number. When new pages are added, the check page is changed to reflect the revision.

COMPETITIVE ACCESS PROVIDER TARIFF

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COMPETITIVE ACCESS PROVIDER TARIFF

PRELIMINARY STATEMENT

This tariff governs the service offerings, rates, terms and conditions applicable to the furnishing of Competitive Access Provider (“CAP”) Services by Everstream Solutions LLC (referred to herein as “Company” or “Everstream”) that originate and terminate in Pennsylvania. Service is offered for dedicated point-to-point circuits pursuant to the terms of this tariff. Descriptions applicable to specific offerings are found in the Rate Schedules of this tariff. Service is not offered or available for purchase by residential and/or business end users. Service is available 24 hours per day, seven days per week and is subject to the availability of necessary equipment and facilities and the economic feasibility of providing such necessary equipment and facilities. Services are offered via the Company’s facilities (whether owned, leased, or under contract), and may be provided in combination with services provided by other carriers.

This tariff is on file with the Pennsylvania Public Utility Commission, and copies may be inspected during normal business hours at the Company’s principal place of business and business office located at 1228 Euclid Avenue, #250, Cleveland, Ohio 44115. This tariff is intended to be in conformance with all applicable State and Federal laws (including, but not limited to, 52 Pa. Code, 66 Pa C.S., and the Telecommunications Act of 1996), and with the Commission’s applicable Rules and Regulations and Orders. Any provisions contained in this tariff that are inconsistent with the foregoing mentioned will be deemed inoperative and superseded.

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COMPETITIVE ACCESS PROVIDER TARIFF

EXPLANATION OF SYMBOLS

(D) Decrease

(I) Increased

(C) Change

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COMPETITIVE ACCESS PROVIDER TARIFF

1. DEFINITIONS

Advance Payment: Part or all of a payment required before the start of service.

Business Hours: The time after 8:00 a.m. and before 5:00 p.m., Monday through Friday, excluding Holidays.

Business Office: The primary location where the business operations of Company are performed and where the Company makes a copy of the Company's tariff available for public inspection. The address of the business is: 1228 Euclid Avenue, #250, Cleveland, OH 44115.

Commission or PA PUC: The Pennsylvania Public Utility Commission.

Common Carrier: An authorized company or entity providing telecommunications services to the public.

Company: The term "Company" means Everstream Solutions LLC.

Customer: The person, firm or corporation that orders service and is responsible for the payment of charges and compliance with the terms and conditions of this tariff.

Customer Premises: A location designated by the Customer for the purposes of connecting to the Company's services.

Dark Fiber: Unactivated optical fiber deployed without optoelectronics and through which no light is transmitted, and no signal is carried.

COMPETITIVE ACCESS PROVIDER TARIFF

1. DEFINITIONS (cont'd.)

Head End: A physical location, building or structure used to house the Company equipment and Customer equipment used to transfer originating and terminating traffic between Company and Customer.

Holiday: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. When holidays fall on Saturdays or Sundays, the holiday rate applies unless a larger discount would normally apply.

Individual Case Basis ("ICB"): Customer-specific arrangements that may vary from tariff in rates, terms and/or conditions according to Customer-specific requirements and service-specific parameters.

Interruption: The inability to complete calls due to equipment malfunctions or human errors. Interruption shall not include the failure of any service or facilities provided by a Common Carrier or other entity other than the Company. Any Interruption allowance provided within this tariff by Company shall not apply where service is interrupted by the negligence or willful act of the Customer, or where the Company, pursuant to the terms of this tariff, terminates service because of non-payment of bills, unlawful or improper use of the Company's facilities or service, or any other reason covered by this tariff or by applicable law.

Lambda: A specific wavelength on a fiber optic system.

COMPETITIVE ACCESS PROVIDER TARIFF

1. DEFINITIONS (cont'd.)

Nonrecurring Charges: Charges to the Customer for services and equipment, assessed by the Company once, usually at the origination or termination of services, and/or installation of equipment.

Permanent Virtual Circuit ("PVC"): A bi-directional transmission path of variable bandwidth that carries RF traffic between a Company Head End and one or more remote Point(s) of Presence, provisioned on a Company-provided DAS.

Point of Presence ("POP"): A physical location at the remote end (i.e., non-Head End) of a PVC that hosts Company and/or Customer RF/optical conversion, fiber interconnect, and/or multiplexing equipment that is connected to the fiber optic system carrying the PVC.

Recurring Charges: Monthly, quarterly or other periodic charges to the Customer for services and equipment, which continue for the agreed-upon duration of the service.

SONET: Synchronous Optical Network standard for optical telecommunications transport services developed by the American National Standards Institute.

Service: Any service or services, singly or in any combination, offered pursuant to the terms of this tariff.

Telecommunications: The transmission of voice and/or data communications between two points.

Term Agreement: An agreement between the Company and the Customer for a fixed period of time.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS

2.1 UNDERTAKING OF THE COMPANY

- 2.1.1** The Company's services are furnished for telecommunications services originating and terminating within the Commonwealth of Pennsylvania.
- 2.1.2** The Company is a facilities-based and resale provider of telecommunications to Customers for the direct transmission and reception of voice, data, and other types of communications. Services are offered via the Company's facilities (whether owned, leased, or under contract), and may be provided in combination with services provided by other certificated carriers. The Company is responsible under this tariff only for the services and facilities the Company provides hereunder.
- 2.1.3** The Company's services are provided on a monthly basis unless otherwise provided, and are available twenty-four (24) hours per day, seven (7) days per week, subject to the availability of necessary service, equipment and facilities and the economic feasibility of providing such necessary service, equipment, and facilities.

2.2 SHORTAGE OF FACILITIES OR EQUIPMENT AND OTHER LIMITATIONS

- 2.1.1** The Company reserves the right to limit or to allocate the use of existing facilities, or of additional facilities offered by the Company, when necessary because of lack of facilities, or due to some other cause beyond the Company's control.
- 2.2.2** The furnishing of service under this tariff is subject to the availability on a continuing basis of all the necessary facilities and is limited to the capacity of the Company's facilities as well as facilities the Company may obtain from other carriers to furnish service from time to time as required at the sole discretion of the Company.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)**2.3 TERMS AND CONDITIONS**

2.3.1 A Service may be initiated only based on a written agreement between the Company and the Customer. To initiate a service request, the Customer must provide the following information: the Customer's name; an address to which the Company shall provide service; and a billing address (if different). The service application does not itself bind either the Customer to subscribe to the service or the Company to provide the service.

2.3.2 Request for service under this tariff will authorize the Company to conduct a credit search on the Customer. The Company reserves the right to refuse service on the basis of credit history unless the Customer pays a deposit, and to refuse further service due to late payment or nonpayment by the Customer. Potential customers who are denied service must be given the reason for the denial in writing within 10 days of service denial.

2.4 LIMITATIONS ON LIABILITY

2.4.1 In view of the fact that the Customer has exclusive control over the use of service and facilities furnished by the Company, and because certain errors incident to the services and to the use of such facilities of the Company are unavoidable, services and facilities are furnished by the Company subject to the terms, conditions and limitations herein specified:

2.4.1.1 Service Irregularities

2.4.1.1.1 The liability of the Company for damages arising out of mistakes, omissions, interruptions, delays, errors or defects in transmission, or failures or defects in facilities furnished by the Company, occurring in the course of furnishing service or other facilities and not caused by the negligence of the Customer, shall in no event exceed an amount equivalent to the proportionate charge to the Customer for the service or facilities affected during the period such mistake, omission, interruption, delay, error or defect in transmission, or failure or defect in facilities continues after notice and demand to the Company.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.4 LIMITATIONS ON LIABILITY (cont'd.)

2.4.1.1.2 The Company shall not be liable for any act or omission of any connecting carrier, underlying carrier or local exchange company except where Company contracts with the other carrier; for acts or omissions of any other providers of connections, facilities, or service; or for culpable conduct of the Customer or failure of equipment, facilities or connection provided by the Customer.

2.4.1.1.3 The Company shall not be liable for any failure of performance due to causes beyond its control, including but not limited to cable dig-up by third party, acts of God, civil disorders, actions of governmental authorities, actions of civil or military authority, labor problems, national emergency, insurrection, riots, war, fire, flood, and atmospheric conditions or other phenomena of nature, such as radiation. In addition, the Company will not be liable for any failure of performance due to necessary Network reconfiguration, system modifications for technical upgrades, or actions taken by any court or government agency having jurisdiction over the Company.

2.4.1.2 Claims of Misuse of Service:

2.4.1.2.1 The Company shall be indemnified and saved harmless by the Customer against claims for libel, slander, fraudulent or misleading advertisements or infringement of copyright arising directly or indirectly from material transmitted over its facilities or the use thereof; against claims for infringement of patents arising from combining or using apparatus and systems of the Customer with facilities of the Company; and against all other claims arising out of any act or omission of the Customer in connection with the services and facilities provided by the Company.

2.4.1.2.2 The Company does not require indemnification from the Customer where the action for which it is seeking indemnification is based on a claim of negligence by the Company.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.4 LIMITATIONS ON LIABILITY (cont'd.)

2.4.1.3 Defacement of Premises

2.4.1.3.1 The Company is not liable for any defacement of, or damage to, the Customer's Premises resulting from the furnishing of service or the attachment of equipment and facilities furnished by the Company on such premises or by the installation or removal thereof, when such defacement or damage is not the result of negligence of the Company. For the purpose of this paragraph, no agents or employees of any other participating carrier(s) shall be deemed to be agents or employees of the Company except where contracted by the Company.

2.4.1.4 Facilities and Equipment in Explosive Atmosphere, Hazardous or Inaccessible Locations

2.4.1.4.1 The Company does not guarantee nor make any warranty with respect to installations provided by it for use in an explosive atmosphere. Company shall be indemnified, defended and held harmless by Customer from and against any and all claims, loss, demands, suits, or other action, or any liability whatsoever, whether suffered, made, instituted or asserted by the Customer or by any other party, and for any loss, damage or destruction of any property, including environmental contamination, whether owned by the Customer or by any other party, caused or claimed to have been caused directly or indirectly by the installation, operation, failure to operate, maintenance, presence, condition, location, use or removal of any equipment or facilities or the service and not due to the gross negligence or willful misconduct of the Company.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.4 LIMITATIONS ON LIABILITY (cont'd.)

2.4.1.5 Service at Outdoor Locations

2.4.1.5.1 The Company reserves the right to refuse to provide, maintain or restore service at outdoor locations unless the Customer agrees in writing to indemnify and save the Company harmless from and against any and all loss or damage that may result to equipment and facilities furnished by the Company at such locations.

2.4.1.6 Warranties

2.4.1.6.1 THE COMPANY MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED EITHER IN FACT OR BY OPERATION OF LAW, STATUTORY OR OTHERWISE, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR USE, EXCEPT THOSE EXPRESSLY SET FORTH HEREIN.

2.4.1.6.2 Acceptance of the provisions of Section 2.4 by the Commission does not constitute its determination that any disclaimer of warranties or representations imposed by the Company should be upheld in a court of law.

2.4.1.7 Scope of liability

2.4.1.7.1 Nothing in this tariff shall be construed to limit the Company's liability in cases of gross negligence or willful misconduct.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.5 OWNERSHIP OF FACILITIES

- 2.5.1** Title to all facilities provided in accordance with this tariff remains in the Company, its agents, contractors or suppliers.

2.6 PROHIBITED USES

- 2.6.1** The services the Company offers shall not be used for any unlawful purpose or for any use for which the Customer has not obtained all required governmental approvals, authorization, licenses, consents and permits.
- 2.6.2** The Company may require applicants for service who intend to use the Company's offering for resale and/or for shared use to file a letter with the Company confirming that their use of the Company's offerings complies with relevant laws and regulations, policies, orders, and decisions.
- 2.6.3** The Company may require a Customer to immediately shut down its transmission if such transmission is causing interference to others.
- 2.6.4** A Customer or authorized user may not assign, or transfer in any manner, the service or any rights associated with the service without the written consent of the Company. The Company will permit a Customer to transfer its existing service to another entity if the existing Customer has paid all charges owed to the Company for regulated access services. Such a transfer will be treated as a disconnection of existing service and installation of new service, and non-recurring installation charges as stated in this tariff will apply. Additionally, Customer may be liable for termination charges if Customer terminates any contract prior to expiration of its term.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.7 OBLIGATIONS OF THE CUSTOMER

The Customer shall be responsible for:

- 2.7.1** placing any necessary Service Orders; complying with tariff terms and conditions; for assuring that users comply with tariff regulations; and for payment of charges for calls originated from the Customer's telephone lines;
- 2.7.2** arranging access to its premises at times mutually agreeable to Company and the Customer when required for installation, repair, maintenance, inspection or removal of equipment associated with the provision of Company services;
- 2.7.3** maintaining its equipment and facilities in good operating condition. The Customer is liable for any loss, including loss through theft, of any Company equipment installed at the Customer's premises.

2.8 INTERCONNECTION OF FACILITIES

- 2.8.1** A Service furnished by Company may be interconnected with services or facilities of other authorized communications common carriers and with private systems, subject to the technical limitations established by Company. Any special interface of equipment or facilities necessary to achieve compatibility between the facilities of Company and other participating carriers shall be provided at the Customer's expense.
- 2.8.2** Interconnection between the facilities or services of other carriers shall be under the applicable terms and conditions of the other carriers' tariffs. The Customer is responsible for taking all necessary legal steps for interconnecting Customer-provided equipment with Company's facilities. The Customer shall secure all licenses, permits, rights-of-way and other such arrangements necessary for interconnection.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.9 CUSTOMER ADVANCE PAYMENTS AND DEPOSITS

2.9.1 Advance Payments

2.9.1.1 The Company reserves the right to require from an applicant for service advance payments for the construction of facilities and furnishing of special equipment. The advance payment will not exceed an amount equal to the nonrecurring charge(s) and one month's charges for the service or facility. In addition, where special construction is involved, the advance payment may also include an amount equal to the estimated nonrecurring charges for the special construction. The advance payment will be applied to any indebtedness for the service and facilities for which the advance payment is made on the Customer's initial bill.

2.9.1.2 Advance payments for installation costs or special construction will be credited on the first bill in their entirety.

2.9.2 Deposits

2.9.2.1 The Company may, at its sole discretion, require a deposit or usage prepayment as a condition to Customer's receiving new service or additional service. The Company reserves the right to review an applicant's or a Customer's credit history at any time to determine if a deposit is required.

2.9.2.2 In the event the Customer fails to establish a satisfactory credit history, deposits are a form of security that may be required from Customers to ensure payment of bills.

2.9.2.3 Deposits shall be no greater than twice the estimated average monthly bill for the class of service applied for.

2.9.2.4 Deposits will bear interest at the rate of 6% per annum. Deposits will be refunded with interest within 30 days after discontinuance of service or after 12 months of service, whichever comes first. Interest on deposits are payable at the rate of the average 1-year US Treasury bills for September, October, and November of the-previous year without deduction for any taxes on such deposits. Interest will not accrue on any deposits after the date on which reasonable effort has been made to return it to the customer.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.10 PAYMENT ARRANGEMENTS

2.10.1 Payment for Service

2.10.1.1 The Customer is responsible for the payment of all charges for facilities and services furnished by the Company to the Customer.

2.10.2 Taxes

2.10.2.1 Appropriate federal, state, local and municipal taxes and surcharges will be charged on Services and are in addition to the rates for Service set forth in this tariff unless otherwise stated.

2.10.2.2 Customers shall pay all sales, use, gross receipts, excise, access, bypass, or other local, state and Federal taxes, charges, or surcharges, however designated, imposed on or based upon the provision, sale or use of the services (excluding taxes on the Company's net income). Such taxes shall be separately stated on the applicable invoice.

2.10.2.3 When a municipal corporation or other political subdivision of the state collects from the Company a license tax, privilege tax, street use tax, franchise fee, permit fee, or any tax, exaction, or fee measured by poles, wires, conduits, manholes, telephones, other units of plant, income or activities as a public service corporation, such taxes, exactions and fees shall, insofar as practicable, be billed pro rata to the Customers receiving service within the territorial limits of the municipal corporation or political subdivision.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.11 BILLING AND COLLECTION OF CHARGES

- 2.11.1** The Customer is responsible for payment of all charges incurred by the Customer for services and facilities furnished to the Customer by the Company. The Company is not responsible for any telephone charges that may be incurred by the Customer in gaining access to the Company's Network.
- 2.11.2** Charges for service are applied on a recurring basis. Service is provided and billed on a monthly (30 day) basis. Months are presumed to have 30 days. The billing date is dependent on the billing cycle assigned to the Subscriber. Service continues to be provided for the minimum service term.
- 2.11.3** Billing is payable upon receipt and past due thirty (30) days after issuance and posting of invoice. Bills not paid within thirty-one (31) days after the date of posting are subject to a 1.25 percent per month late payment charge for any unpaid balance. The late payment date will be prominently displayed on the Customer's bill. Company shall endeavor to credit payments within 24 hours of receipt to avoid assessing late payment charges incorrectly.
- 2.11.4** Monthly recurring charges that are not usage-sensitive are billed monthly in advance. Usage charges are billed monthly in arrears. In the event the Company changes its rates, recurring monthly charges affected by such change will be assessed at the new rate for the full billing period during which the new recurring charge rate became effective.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.11 BILLING AND COLLECTION OF CHARGES (cont'd)

2.11.5 The Company does not offer service to residential customers. In the event that the Company offers services to residential customers in the future, it will comply with the requirements of Chapter 64 in 52 Pa. Code regarding billing standards and practices for residential customers. In instances where sections of this tariff may conflict with Chapter 64 regulations, the regulations in Chapter 64 will prevail.

2.12 BILLING DISPUTES

2.12.1 General

2.12.1.1 Billing disputes should be addressed to Company's customer service organization via telephone to 866-624-8624. Customer service representatives are available from 9:00 AM to 5:00 PM Eastern Time. Messages may be left for Customer Service from 5:00 PM to 9:00 AM Eastern Time, which will be answered on the next business day, except in the event of an emergency which threatens customer service, in which case Customer Service Staff may be paged.

2.12.1.2 The undisputed portions of the bill must be paid by the payment due date shown on the bill to avoid assessment of a late payment charge on the undisputed amount under Section 2.11.3, preceding.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.12 BILLING DISPUTES (cont'd)

2.12.2 Adjustments or Refunds to the Customer

- 2.12.2.1** In the event that the Company resolves the billing dispute in favor of a Customer who has withheld payment of the disputed amount pending resolution of the disputed bill, the Company will credit the Customer's account for the disputed amount in the billing period following the resolution of the dispute.
- 2.12.2.2** In the event the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill, the Company will credit the Customer's account for any overpayment by the Customer in the billing period following the resolution of the dispute.
- 2.12.2.3** In the event that the Company resolves the billing dispute in favor of a Customer who has paid the total amount of the disputed bill but canceled the service, the Company will issue a refund of any overpayment by the Customer.
- 2.12.2.4** All adjustments or refunds provided by the Company to the Customer at the Customer's request, or provided by the Company to the Customer by way of compromise of a billing dispute, and which are accepted by the Customer, are final and constitute full satisfaction, settlement, and/or compromise of all of the Customer's claims for the billing period for which the adjustment or refund was issued.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.13 UNRESOLVED BILLING DISPUTES

2.13.1 In the case of a billing dispute between the Customer and the Company for service furnished to the Customer, which cannot be settled to the mutual satisfaction of the Customer and the Company, the Customer can take the following course of action:

2.13.1.1 First, the Customer may request, and the Company will provide an in-depth review of the disputed amount. The undisputed portion and subsequent bills must be paid on a timely basis or the service may be subject to disconnection.

2.13.1.2 Second, if after investigation and review by the Company, a disagreement remains as to the disputed amount, the Customer may file an appropriate complaint with:

Pennsylvania Public Utility Commission
Bureau of Consumer Services
P.O. Box 3265
Harrisburg, Pennsylvania 17105-3265
Telephone: 1-800-692-7380

2.13.1.3 In order to avoid suspension of service and late payment charges, the disputed amount must be paid within fourteen (14) calendar days after the date the Company notifies the Customer that the investigation and review are completed and that such payment must be made or service will be interrupted. However, the Company will not suspend service prior to the payment due date as shown on the bill.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.14 DISCONTINUANCE OF SERVICE

2.14.1 Upon violation of any of the material terms or conditions for furnishing service, the Company shall mail or deliver written notice to the Customer at least seven (7) days before the date of the proposed suspension. When at least ten (10) days have passed since suspension of service, the Company may terminate service for failure to pay a reconnection fee and to remedy the original grounds for suspension.

2.14.2 Service may be suspended by written notice for any of the following reasons:

2.14.2.1 Nonpayment of any sum due to the Company for service more than thirty (30) days beyond the date of the invoice for such service. In the event the Company terminates service for nonpayment, the Customer may be liable for all reasonable court costs as determined by the Court.

2.14.2.2 By reason of any order or decision of a court or any other governmental authority which prohibits the Company from furnishing such service.

2.14.2.3 Failure to post a required deposit or guarantee.

2.14.2.4 Unlawful use of the service or use of the service for unlawful purposes.

2.14.2.5 Violation of, or failure to comply with, any regulation or condition governing the furnishing of service.

2.14.2.6 If the Company deems such refusal necessary to protect itself or third parties against fraud or to otherwise protect its personnel, agents, facilities or services.

2.14.2.7 If the Customer provides false information to the Company regarding the Customer's identity, address, creditworthiness, or past, current or planned use of Company's services.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)**2.14 DISCONTINUANCE OF SERVICE (cont'd.)**

2.14.3 The Company may suspend service without prior notice if it is based on an occurrence that endangers the safety of a person or appears likely to prove physically harmful to the service delivery system. At the time of suspension, the Company shall mail a notice of suspension to the Customer's billing address.

2.14.4 Upon condemnation of any material portion of the facilities used by the Company to provide service to a Customer or if a casualty renders all or any material portion of such facilities inoperable beyond feasible repair, the Company, by notice to the Customer, may discontinue or suspend service without incurring any liability.

2.15 RESTORATION OF SERVICE

2.15.1 The Customer may restore service by full payment in any reasonable manner including by personal check. However, the Company may refuse to accept a personal check if a Customer's check for payment of service has been dishonored, excepting bank error, within the last twelve months. There is a \$35.00 charge for restoration of service after disconnection; if, however, the equipment necessary for service has been removed, the non-recurring fee will apply.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)**2.16 NOTICE TO COMPANY FOR CANCELLATION OF SERVICE**

- 2.16.1** Customer may cancel service by providing written notice to Company five (5) days prior to cancellation. However, Customer may not cancel service prior to expiration of the initial one (1) year term.
- 2.16.2** Customer is responsible for charges while still connected to the Company's service and the payment of associated local exchange company charges, if any, for service charges.
- 2.16.3** Any non-recoverable cost of Company expenditures shall be borne by the Customer if:
- 2.16.3.1** Customer orders service requiring special facilities dedicated to the Customer's use and then cancels the order before such service begins, before completion of the minimum period or before completion of some period mutually agreed with the Customer for the non-recoverable portions of expenditures; or
 - 2.16.3.2** Liabilities are incurred expressly on behalf of the Customer by Company and not fully reimbursed by installation and monthly charges; or
 - 2.16.3.3** Customer has ordered service and construction has either begun or has been completed, but no service provided.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.17 ALLOWANCES FOR INTERRUPTION IN SERVICE

- 2.17.1** A credit allowance will be given when service is interrupted, except as specified in Section 2.18 following. A service is interrupted when it becomes inoperative to the Customer, e.g., the Customer is unable to transmit or receive, because of a failure of a service, facility or circuit furnished by the Company under this tariff.
- 2.17.2** An interruption period begins when the Customer reports a service, facility or circuit to be inoperative and, if necessary, releases it for testing and repair. An interruption period ends when the service, facility or circuit is operative.
- 2.17.3** If the Customer reports a service, facility or circuit to be interrupted but declines to release it for testing and repair, the service, facility or circuit is considered to be impaired but not interrupted. No credit allowances will be made for a service, facility or circuit considered by the Company to be impaired.

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.18 LIMITATIONS ON ALLOWANCES

2.18.1 No credit will be made for any interruption in service:

- 2.18.1.1** Due to the negligence of or noncompliance with the provisions of this tariff by any person or entity other than the Company, including but not limited to the Customer or other common carriers connected to the service of the Company;
- 2.18.1.2** Due to the failure of power, equipment, systems, connections or services not provided by the Company;
- 2.18.1.3** Due to circumstances or causes beyond the control of the Company;
- 2.18.1.4** During any period in which the Company is not given full and free access to its facilities and equipment for the purposes of investigating and correcting interruptions;
- 2.18.1.5** During any period in which the Customer continues to use the service on an impaired basis;
- 2.18.1.6** During any period when the Customer has released service to the Company for maintenance purposes or for implementation of a Customer order for a change in service arrangements;
- 2.18.1.7** That occurs or continues due to the Customer's failure to authorize replacement of any element of special construction; or
- 2.18.1.8** That was not reported to the Company within thirty (30) days of the date that service was affected.

Issued: March 10, 2021

Issued by:
Brett Lindsey, President & CEO
1228 Euclid Avenue, #250
Cleveland, OH 44115

Effective: March 11, 2021

COMPETITIVE ACCESS PROVIDER TARIFF

2. RULES AND REGULATIONS (cont'd.)

2.19 USE OF ANOTHER MEANS OF COMMUNICATIONS

2.19.1 If the Customer elects to use another means of communications during the period of interruption, the Customer must pay the charges for the alternative service used.

2.20 APPLICATION OF CREDITS FOR INTERRUPTIONS IN SERVICE

2.20.1 Except as provided in Section 2.18 above, when main service is interrupted for a period of at least 24 hours, the Company shall provide credits to Customers at the following rate:

2.20.1.1 One-thirtieth of monthly rate for each of the first three full 24-hour periods.

2.20.1.2 Two-thirtieths of monthly rates for each full 24-hour period beyond the first three 24-hour periods.

2.20.1.3 However, in no instance shall the allowance for the out-of-service period exceed the total charges in a billing period for the service and facilities furnished by the Company that have been rendered useless or impaired

Issued: March 10, 2021

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COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES**3.1 SCHEDULE 1: DEDICATED POINT-TO-POINT PERMANENT VIRTUAL CIRCUIT (“PVC”) TRANSPORT SERVICE****3.1.1 Service Description**

Dedicated Point-To-Point PVC Transport Service is available on the Company’s Systems. Dedicated Point-To-Point PVC Transport Service begins at a Company Head End. Customers are responsible for providing or obtaining circuits to connect from their networks to the Company Head End. The Head End contains Customer’s circuit terminating equipment, Base Transceiver Station and related peripheral equipment, as well as Company’s and/or Customer’s RF/Optical conversion equipment. The RF/Optical conversion equipment converts Customer’s RF signals into optical signals, and places those signals into a PVC that traverses Company S network facilities between the Head End and one or more Points of Presence (“POPs”).

3.1.2 Monthly Recurring Rate Elements

The following monthly recurring rate elements apply to Dedicated Point-To-Point PVC Transport Service:

3.1.2.1 Signal Conversion Rate

Signal Conversion Rates apply where Company owns the RF/optical conversion equipment. Signal Conversion Rates are not applicable when the Customer owns the RF/optical conversion equipment.

3.1.2.1.1 Local Signal Conversion Rate

A Local Signal Conversion Rates applies when the RF/optical conversion equipment located at the Head End is owned and operated by Company.

3.1.2.1.2 Remote Signal Conversion Rates

Remote Signal Conversion Rates apply when the RF/optical conversion equipment located at the POPs distributed throughout a Company network is owned and operated by Company.

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.1.2.2 Committed Information Rate**

The Committed Information Rate (“CIR”) of a PVC is the amount of bandwidth selected by Customer to carry the RF traffic that is optically converted and transported over the Company DAS network, stated in MegaHertz (“MHZ”) and made available in Tiers (increments) of 5 MHZ to 60 MHZ per PVC.

3.1.2.3 Permanent Virtual Circuit (“PVC”) Rate Elements

PVC Rate Elements relate to both the physical layer and the bandwidth required to create a PVC to transport Customer’s CIR from the Head End to one or more POPs on the Company DAS network. The rate elements that will apply depend on the type of optical conversion and multiplexing methodology used to aggregate one or more Customer CIR Tiers over a PVC to one or more POPs.

3.1.2.3.1 Dedicated Strand Charge

The Dedicated Strand Charge applies to PVCs utilizing one or more dim or dark fibers between the Head End and the POP(s).

3.1.2.3.2 Wave Division Multiplexed (“WDM”) Charge

The WDM Charge applies to PVCs utilizing one or more lambdas engineered with WDM technology and equipment on a fiber between the Head End and the POP(s). The WDM charge applies to all current and future variations of WDM, including but not limited to Coarse Wave and Dense Wave Division Multiplexing in both analog and digital transport topologies.

3.1.2.3.3 SONET Ring Charge

The SONET Ring Charge applies to a PVC deployed on a SONET ring network configuration, using Dedicated Strand(s) or WDM, engineered in a point to multi-point configuration. SONET Ring PVCs may be provisioned using customary add/drop, physical interconnect or WDM technology for both originating and terminating traffic, from a head end to one or more POPs connected to the SONET Ring.

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)

3.1.2.3.4 Add/Drop Charges

Add/Drop charges apply to each POP requested by Customer on a SONET Ring or point to multi-point PVC.

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)

3.1.3 Non-Recurring Rate Elements

The following non-recurring rate elements may apply to Dedicated Point-To-Point PVC Transport Service:

3.1.3.1 Lateral Construction Charge

A Lateral Construction Charge applies where POPs requested by Customer are to be integrated into a Company network and the cost of construction of the lateral and/or building riser facilities cannot reasonably be recovered by Company over the expected duration of service to Customer.

3.1.3.2 Lateral Connection Charge

A Lateral Connection Charge applies where POPs requested by Customer are to be integrated into a Company network and the cost of (i) interconnecting to circuits or facilities not owned by Company, and/or (ii) non-standard interconnection requested by Customer, cannot reasonably be recovered by Company over the expected duration of service to Customer.

3.1.3.3 Network Connection Charge

A Network Connection Charge applies where Company provides certain specified network integration and connection services to integrate and optimize the physical and virtual connections between Company and Customer equipment.

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)

3.1.4 Rates

<u>PVC RATE ELEMENT</u>	<u>MONTHLY RECURRING CHARGE</u>	<u>CHARGING BASIS</u>
<u>SIGNAL CONVERSION RATES</u>		
Local Signal Conversion Rate	\$500.00	Per Month Per POP
Remote Signal Conversion Rate	\$2,000.00	Per Month Per POP
<u>COMMITTED INFORMATION RATES</u>		
Tier 5 MHZ	\$2,000.00	Per Month Per POP
Tier 10 MHZ	\$2,275.00	Per Month Per POP
Tier 15 MHZ	\$2,425.00	Per Month Per POP
Tier 20 MHZ	\$2,575.00	Per Month Per POP
Tier 25 MHZ	\$2,725.00	Per Month Per POP
Tier 30 MHZ	\$2,875.00	Per Month Per POP
Tier 35 MHZ	\$3,025.00	Per Month Per POP
Tier 40 MHZ	\$3,175.00	Per Month Per POP
Tier 45 MHZ	\$3,325.00	Per Month Per POP
Tier 10: 50 MHZ	\$3,475.00	Per Month Per POP
Tier 11: 55 MHZ	\$3,625.00	Per Month Per POP
Tier 12: 60 MHZ	\$3,775.00	Per Month Per POP
<u>PERMANENT VIRTUAL CIRCUIT ELEMENTS</u>		
Dedicated Fiber Strand	\$5,200.00	Per Month Per Strand
WDM	\$3,900.00	Per Month Per POP
SONET Ring	\$2,080.00	Per Month Per Ring
Add / Drop	\$625.00	Per Month Per Drop
<u>NON-RECURRING ELEMENTS</u>	<u>NON- RECURRING CHARGES</u>	
Lateral Construction Charge	\$200,000.00	Per POP
Lateral Connection Charge	\$30,000.00	Per POP
Network Connection Charge	\$100,000.00	Per Network

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.2 SCHEDULE 2: COLLOCATION****3.2.1 Service Description**

Collocation service allows a Customer to place Customer's telecommunications equipment on certain of the Company's premises and within space allocated at the Company's Head Ends, in designated locations at such premises. Collocation shall be subject to the availability of appropriately sized and located space at such locations. The prices, terms and conditions of collocation shall be negotiated between the Company and Customer on a site-specific basis. The Company shall provide space that is appropriately conditioned for Customer's equipment.

3.2.2 Non-Recurring and Monthly Recurring Rates

ICB

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.3 SCHEDULE 3: SPECIAL CONSTRUCTION****3.3.1 Service Description**

Special construction or arrangement of facilities may be undertaken on a reasonable efforts basis at the request of the Customer, and upon a determination by the Company that such charges should apply in that particular instance. Special Construction is undertaken:

- (a) where facilities are not presently available;
- (b) where the service is of a type other than that which the Company would normally utilize in the furnishing of its service;
- (c) where the service is requested over a route other than that which the Company would normally utilize in the furnishing of its services;
- (d) where the service is in a quantity greater than that which the Company would normally provide;
- (e) where service is requested on an expedited basis;
- (f) where service is requested on a temporary basis until permanent facilities are available;
- (g) where the service requested involves abnormal costs; or
- (h) where service is requested in advance of the Company's normal construction schedule.

3.3.2 Non-Recurring and Monthly Recurring Rates

ICB

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.4 SCHEDULE 4: TIME AND MATERIAL SERVICES****3.4.1 Service Description**

This service provides for the Time and Materials charges associated with installation, maintenance, testing and repair deemed to be associated with equipment and facilities not provided by the Company or deemed to be non-standard or non-routine.

The Company shall have no responsibility for the maintenance and repair of any kind with respect to equipment and facilities not provided by the Company. The Company will charge the Customer time, materials and charges listed in Section 3.4.2 for any maintenance visits with respect to service problems which are determined to arise from equipment or facilities not provided by the Company.

When a Customer reports a trouble to the Company for clearance and no trouble is found in the Company's facilities, the Customer shall be responsible for payment of Time and Materials Charges as listed in Section 3.4.2 for the period of time from when the Company personnel were dispatched to the Customer's premises to when the work is completed.

Failure of Company personnel to find trouble in Company facilities will result in no charge if the trouble is actually in those facilities, but not discovered at the time. If the Customer, after being informed that the trouble is not in Company facilities, wishes to have the maintenance work performed by Company, and the Company agrees to perform the work, the Time and Materials Charges listed below shall apply.

At the Customer's request, installation and/or maintenance may be performed outside the Company's regular business hours or in hazardous locations. In such cases Time and Materials Charges will apply. If installation is started during regular business hours but, at the Customer's request, extends beyond regular business hours into time periods including, but not limited to, weekends, holidays, and/or night hours, additional charges may apply.

3.4.2 Non-Recurring and Monthly Recurring Rates

ICB

COMPETITIVE ACCESS PROVIDER TARIFF

3. RATE SCHEDULES (cont'd.)**3.5 SCHEDULE 5: INDIVIDUAL CASE BASIS (“ICB”) PRICING ARRANGEMENTS**

3.5.1 In lieu of the rates otherwise set forth in this tariff, rates and charges, including installation, special construction, and recurring charges, may be established at negotiated rates on an Individual Case Basis, taking into account such factors as the nature of the facilities and services, the costs of construction and operation, the volume of traffic commitment, and the length of service commitment by the Customer, as long as the rates and charges are not less than Company’s costs of providing the service. Such arrangements shall be considered Specialized Pricing Arrangements, the terms of which will be set forth in individual contracts or customer term agreements. Specialized Pricing Arrangement rates or charges will be made available to similarly situated customers on comparable terms and conditions. Upon reasonable request, Company will make the terms of these contracts available to the Commission and its staff for review on a confidential and proprietary basis.

CERTIFICATE OF SERVICE

I, Christian Gartner, hereby certify that on this 10th day of March 2021, I have caused a copy of the Everstream Solutions LLC Competitive Access Provider Tariff – Pa. PUC Telephone Tariff No. 1 for the provision of telecommunications services in the Commonwealth of Pennsylvania, to be sent via U.S. First Class Mail to the following:

Office of Consumer Advocate

555 Walnut Street
5th Floor, Forum Place
Harrisburg, PA 17101-1923

Office of Small Business Advocate

Commerce Building, Suite 1102
300 North Second Street
Harrisburg, PA 17101

Office of Attorney General

Office of Consumer Protection
Strawberry Square
Harrisburg, PA 17120



Christian Gartner, Chief Financial Officer
Everstream Solutions LLC

EXHIBIT TM-3

Morgan Lewis

Catherine Vasudevan
catherine.vasudevan@morganlewis.com

July 26, 2022

Via Electronic Filing

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17120

Re: In the Matter of the Joint Application of AMP Capital Investors International Holdings Ltd., Everstream Solutions LLC, and DB Puma GIF II GP HoldCo, LLC for Approval to Transfer Indirect Control of Everstream Solutions LLC to DB Puma GIF II GP HoldCo

Dear Secretary Chiavetta:

On behalf of AMP Capital Investors International Holdings Ltd., Everstream Solutions LLC, and DB Puma GIF II GP HoldCo, LLC, enclosed for filing with the Pennsylvania Public Utility Commission is the above-referenced Joint Application. A filing fee in the amount of \$350.00 is enclosed to cover the requisite filing fee.

Please acknowledge receipt and acceptance of this filing. Should you have any questions concerning this filing, please do not hesitate to contact the undersigned.

Respectfully submitted,

/s/ Catherine Vasudevan

Catherine Vasudevan (PA I.D. No. 210254)

Morgan, Lewis & Bockius LLP

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**BEFORE THE
PENNSYLVANIA PUBLIC SERVICE COMMISSION**

In the Matter of the Joint Application of

**AMP Capital Investors International
Holdings Ltd.,**
Transferor,

Everstream Solutions LLC
Licensee,

and

DB Puma GIF II GP HoldCo, LLC,
Transferee,

for Approval to Transfer Indirect Control
of Licensee to Transferee

Docket No. _____

APPLICATION FOR APPROVAL OF A GENERAL RULE TRANSACTION

TO THE HONORABLE PENNSYLVANIA PUBLIC UTILITY COMMISSION:

THIS JOINT APPLICATION is filed as a General Rule Transaction pursuant to 52 Pa. Code § 63.324, by undersigned counsel, on behalf of AMP Capital Investors International Holdings Ltd. (“Transferor”), Everstream Solutions LLC (“Licensee”), and DB Puma GIF II GP HoldCo, LLC (“Transferee”) (collectively with Transferor and Licensee, the “Applicants”). Applicants respectfully request, to the extent required, approval by the Pennsylvania Public Utility Commission (the “Commission”) for a transfer of indirect control of Licensee to Transferee. As detailed herein, the Transaction will involve Transferor selling its 100% ownership interest in AMP Capital Investors (GIF II GP) S.à.r.l., a Luxembourg company, to Transferee, resulting in a change in the voting control of Licensee (the “Transaction”). Following the Transaction, Licensee will continue to be an indirect, wholly owned subsidiary of Midwest Fiber Holdings LP, which

will remain indirectly owned by four limited partnerships organized in Luxembourg (AMP Capital Global Infrastructure Fund II A LP SCSp, AMP Capital Global Infrastructure Fund II B LP SCSp, AMP Capital Global Infrastructure Fund II C LP SCSp, and AMP Capital Global Infrastructure Fund II E LP SCSp), collectively referred to as “GIF II,” with a 1.5% ownership interest held by a management-owned vehicle (Midwest Fiber Management LP, a Delaware limited partnership (the “Management-Owned Vehicle”)).¹ AMP Capital Investors (GIF II GP) S.à.r.l. is the general partner of Midwest Fiber Holdings LP, the Management-Owned Vehicle, and the four Luxembourg limited partnerships.

In support of this filing, Applicant provides the following information:

I. DESCRIPTION OF APPLICANTS

A. Transferor and Licensee

Transferor is headquartered in Australia and owns a global infrastructure equity investment management business. Transferor is wholly owned by Collimate Capital Limited (“Collimate Capital”)² which is a global investment manager headquartered in Australia. Collimate Capital is a downstream subsidiary of AMP Limited, one of Australia’s largest retail and corporate pension providers.

Transferor currently owns 100% of AMP Capital Investors (GIF II GP) S.à.r.l., the general partner of four Luxembourg limited partnerships referred to as GIF II. AMP Capital Investors (GIF II GP) S.à.r.l. is also the general partner of the following Delaware limited partnerships that are indirect owners of Licensee: GIF II US Aggregator LP, Midwest Fiber Midco LP, Midwest Fiber Intermediate US LP, the Management-Owned Vehicle, and Midwest Fiber Holdings LP. In turn, Midwest Fiber Holdings LP is the owner of the following Delaware limited liability companies:

¹ Applicants expect that each fund of GIF II will change their names to no longer use “AMP Capital.”

² In February 2022, AMP Capital Holdings Limited changed its name to Collimate Capital Ltd.

Midwest Fiber Acquisition Topco LLC, Midwest Fiber Acquisition Midco1 LLC, and Midwest Fiber Acquisition LLC (“Midwest”).

Midwest, through Licensee and its affiliates, is a super-regional network service provider bringing fiber-based Ethernet, internet and data center solutions to businesses throughout the Midwest and Mid-Atlantic. The company has more than 10,000 route miles and comprehensive data center connectivity at 100 Gbps. Its network allows businesses to operate a converged IP network capable of delivering robust voice and data services at speeds from 10 Mbps to 100 Gbps.

Licensee is an Ohio limited liability company headquartered at 1228 Euclid Ave., #250, Cleveland, OH 44115. Licensee holds domestic and international Section 214 authorization from the Federal Communications Commission (“FCC”) as well as certificates to provide intrastate telecommunications services in Delaware, Kentucky, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. In Pennsylvania, Licensee holds a Certificate of Public Convenience and Necessity to offer, render, furnish, or supply telecommunications services, pursuant to authority granted in Docket No. A-2020-3022566, on February 25, 2021.

B. Transferee

For purposes of the Transaction, DigitalBridge Operating Company, LLC (“DBOC”), a Delaware limited liability company, formed the following Delaware limited liability companies as its subsidiaries: Transferee, DB Puma GP Holdings, LLC and DB Puma Master HoldCo, LLC, each a Delaware limited liability company. DBOC is a 92% owned subsidiary of DigitalBridge Group, Inc., a Maryland corporation, (“DigitalBridge”) (NYSE: DBRG). DigitalBridge is a leading global digital infrastructure firm. With a heritage of over 25 years investing in and operating businesses across the digital ecosystem including cell towers, data centers, fiber, small

cells, and edge infrastructure, the DigitalBridge team manages a \$47 billion portfolio of digital infrastructure assets on behalf of its limited partners and shareholders.

II. INFORMATION REQUIRED BY 52 PA. CODE § 63.324(d)

Pursuant to 52 Pa. Code § 63.324(d), the Applicants provides the following:

- (1) Name, address and telephone number of each party or applicant to the transaction:

Transferor

AMP Capital Investors International Holdings Ltd.
Level 30
50 Bridge Street
Sydney NSW 2000
Australia
Tel: 612 9257 5000

Licensee

Everstream Solutions LLC
1228 Euclid Ave, #250
Cleveland, OH 44115
+1 (844) 733-4700

Transferee

DB Puma GIF II GP HoldCo, LLC
750 Park of Commerce Drive, Suite 210
Boca Raton, Florida 33487
Tel: 561-570-4644

- (2) Government, state or territory under the laws of which each corporate or partnership applicant to the transaction is organized:

Please see Section I above.

- (3) The name, title, post office address and telephone number of the officer or contact point, including legal counsel in this Commonwealth, to whom correspondence concerning the transaction is to be addressed:

Catherine Vasudevan (PA I.D. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
215-963-5952 (Tel)
215-963-5001 (Fax)
catherine.vasudevan@morganlewis.com

For Transferor and Licensee:

Russell M. Blau
Danielle Burt
Leetal Weiss
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Avenue, NW
Washington, DC 20004-2541
202-739-3000 (tel)
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russell.blau@morganlewis.com
danielle.burt@morganlewis.com
leetal.weiss@morganlewis.com

with a copy to:

Joanne McKnight
AMP Capital
6th Floor, Berkeley Square House,
Berkeley Square, London, W1J
6BZ, UK +44 (0) 20 7659 9236 (tel)
joanne.mcknight@ampcapital.com

Dereck Wischmeyer
Everstream Solutions LLC
1228 Euclid Ave, #250
Cleveland, OH 44115
216-923-2333 (tel)
dwischmeyer@everstream.net

For Transferee:

F. William LeBeau
Peter M. Connolly
Holland & Knight LLP
800 17th Street NW
Washington, D.C. 20006
202-955-3000 (tel)
202-955-5564 (fax)
Bill.LeBeau@hklaw.com
Peter.Connolly@hklaw.com

With a copy to:

Ronald M. Sanders
DigitalBridge Group, Inc.,
590 Madison Avenue, 34th Floor
New York, New York 10022
212-230-3306 (tel)
Ron.Sanders@DigitalBridge.com

- (4) The name, address, citizenship and principal place of business of any person, party or entity that directly or indirectly owns more than 20% of the equity of the applicant, and the percentage of equity owned by each of those entities (to the nearest 1%):

The Transaction will not cause a change in the equity ownership of Licensee. As described herein, Licensee will continue to be an indirect, wholly owned subsidiary of Midwest Fiber Holdings LP, which will remain indirectly owned by four limited partnerships organized in Luxembourg, with a 1.5% ownership interest held by the Management-Owned Vehicle. The general partner of Midwest Fiber Holdings LP, the Management-Owned Vehicle, and the four Luxembourg limited partnerships is AMP Capital Investors (GIF II GP) S.à.r.l. The Transaction will change the voting control of Licensee because Transferor is selling its 100% ownership

interest in AMP Capital Investors (GIF II GP) S.à.r.l to Transferee. Please see FCC Domestic and International Section 214 Application provided as Exhibit B for additional details regarding the direct and indirect 10% or greater voting and equity interest holders.

(5) A summary description of the transaction:

On April 27, 2022, DigitalBridge, through DBOC and DigitalBridge Investment Holdco, LLC, a Delaware LLC (“DBIH”) and a 100% owned subsidiary of DBOC, entered into an Equity Purchase Agreement (“Agreement”) with AMP Group Holdings Limited and Transferor, pursuant to which DBOC will acquire certain interests comprising Transferor’s global infrastructure equity investment management business. Prior to completion of the Transaction, in accordance with this Agreement, DBIH will assign its right to directly acquire a 100% ownership interest in AMP Capital Investors (GIF II GP) S.à.r.l. to Transferee. Accordingly, pursuant to this Agreement, Transferee will acquire from Transferor a 100% ownership interest in AMP Capital Investors (GIF II GP) S.à.r.l. Upon completion, Transferee will have ownership and control of AMP Capital Investors (GIF II GP) S.à.r.l. and will therefore have voting control of the Licensee.³ Following the Transaction, Licensee will remain under the indirect voting control of AMP Capital Investors (GIF II GP) S.à.r.l., the general partner of Midwest Fiber Holdings LP, the Management-Owned Vehicle, and GIF II, and will continue to be an indirect, wholly owned subsidiary of Midwest Fiber Holdings LP which has its

³ Upon completion of the Transaction, DBOC, through its wholly owned entity, DB Puma Master HoldCo, LLC, and other wholly owned entities, also will acquire an indirect 5.69% equity interest in AMP Capital Global Infrastructure Fund II B LP SCSp. As noted above, DBOC is a 92% owned subsidiary of DigitalBridge.

equity interests 100% owned by GIF II and the Management-Owned Vehicle. No assignment of licenses, assets, or customers will occur as a consequence of the Transaction.⁴

For the Commission's reference, charts depicting the Applicants' current and post-Transaction structure are provided as Exhibit A.

- (6) A summary of the services and the service territories in this Commonwealth that will be affected by the transaction:

No service territories will be affected by the Transaction, as Licensee will continue to provide services in the same locations before and after the Transaction.

- (7) A verified statement as to how the transaction fits into one or more of the categories subject to the general rule:

Applicants verify that the Transaction falls into the general rule transaction category under 52 Pa. Code § 63.324(a)(2) because it involves a change in indirect control greater than 20%.

- (8) Identification of other transactions related to the transaction:

There are no jurisdictional transactions, other than the Transaction described in this Application.

- (9) A verified statement whether the transaction warrants special consideration because either party to the transaction is facing imminent business failure:

Applicants verify that they are not facing imminent business failure and therefore they are not requesting special consideration.

- (10) Identification of a separately filed waiver request sought in conjunction with the transaction:

No waiver request is being made with respect to the Transaction.

- (11) A verified statement containing facts and allegations establishing:

⁴ The Transaction will have no impact on Licensee's financing arrangements as approved by the Commission on April 6, 2022 (*See* Docket No. S-2022-3031420).

(i) For a merger or similar transaction, how the transaction will affirmatively promote the service, accommodation, convenience, or safety of the public in some substantial way as required by State law.

(ii) Findings that approval for a transaction subject to 66 Pa.C.S. 1103(a) (relating to procedure to obtain certificates of public convenience) is necessary or proper for the service, accommodation, convenience, or safety of the public.

(iii) The impact of the transaction on competition.

Applicants verify that consummation of the Transaction will serve the public interest. Transferee, through DBOC and DigitalBridge, will bring substantial experience investing in communications infrastructure companies to its ownership of AMP Capital Investors (GIF II GP) S.à.r.l., the general partner of Midwest Fiber Holdings LP and GIF II. At the same time, the Transaction will have no adverse impact on Licensee's customers and will not alter the manner of service delivery or billing. Immediately following the Transaction, Licensee will continue to provide service to its customers at the same rates, terms, and conditions and without interruption.

(12) A verified statement affirming that the applicant is in compliance with Commission obligations and filings and a listing of all State and Federal proceedings when:

(i) Within the 3-year period prior to filing the application, the applicant was found to have violated either State or Federal requirements.

(ii) Within the 3-year period prior to filing the application, the applicant is alleged to have violated either State or Federal requirements.

Licensee verifies that it is in compliance with all Commission obligations and filings. None of the Applicants has been found to have violated either State or Federal requirements over the last three years, and none of the Applicants has been alleged to have materially violated either State or Federal requirements over the last three years.

(13) A verified statement affirming that customers received prior notice. Notice shall be accomplished using a notice approved by the Commission's Bureau of Consumer Services (BCS). Any disagreement between the applicant and BCS shall be addressed

by an appeal from an action of staff mirroring the process in 5.44 (relating to petitions for appeal from actions of the staff) of the Commission's rules of practice and procedure.

The Transaction will not result in any changes to the services received by customers, including rates, terms and conditions of service, as it involves the indirect change in the voting interests of Licensee. Therefore, Licensee does not intend to provide customers notice of the Transaction.

- (14) A verified statement containing a copy of any Commonwealth utility certificates held by the applicant:

Licensee verifies that it is authorized to offer, render, furnish, or supply telecommunications services pursuant to its Certificate of Public Convenience and Necessity granted in A-2020-3022566 on February 25, 2021.

- (15) A verified statement on the effect of the transaction on existing Commonwealth tariffs. If applicable or in response to a request from staff, an applicant shall provide a red-line document identifying changes in existing Commonwealth tariffs before and after the transaction for which the applicant seeks approval from the Commission:

Licensee verifies the Transaction will not have an effect on its Pennsylvania tariff. The Transaction will not result in any changes to the services received by customers, including rates, terms and conditions of service.

- (16) A verified statement on the transaction's effect on the existing affiliate interest agreements of the applicant:

Licensee verifies that the Transaction will not have an effect on its affiliated interest agreements, if any.

- (17) A verified statement establishing that no State or Federal regulatory agency is expected to undertake an informal or formal investigation, complaint or proceeding relating to the transaction:

Applicants verify that the Transaction will not require any informal or formal investigation, complaint or proceeding into the transaction except for Federal and state public utility commission reviews typically required for such transactions.

- (18) Organizational charts showing the effect on the applicant's organization before and after the transaction:

Please see Exhibit A.

- (19) A copy of the application filed at the FCC or a notice filed with the U.S. DOJ, if any, including the electronic location on the agency's website:

Applicants provide a copy of the FCC Domestic and International Section 214 Application filed at the FCC as Exhibit B. The electronic location on the FCC's website is: <https://www.fcc.gov/ecfs/search/search-filings/filing/10725559924088>.

- (20) A verified statement setting forth the expected public effect of the transaction on the capital structure of the applicant over the next 5 years:

Please see the response to paragraph 11 above, in which Applicants verify and provide a description of the public benefits of the Transaction. Applicants further verify that the Transaction will not have a negative impact on Licensee's capital structure over the next five years.

- (21) For an applicant subject to a broadband deployment commitment under Federal or State law, a verified statement affirming that the applicant is in compliance with that commitment:

Licensee verifies that it is not under any Federal or State broadband deployment obligation in Pennsylvania.

- (22) For an applicant with eligible telecommunications carrier status under Federal and State law, a verified statement affirming that the applicant is in compliance with the law and that the applicant will continue to be in compliance with the law:

Licensee verifies that it is not an "eligible telecommunications carrier."

- (23) A verified statement affirming that the transaction complies with the prohibition against cross-subsidization imposed under Federal and State law:

Applicants verify that the Transaction does not violate Federal or State cross-subsidization rules.

III. CONCLUSION

For the foregoing reasons, Applicants submit that the public interest, convenience, and necessity would be furthered by granting this Application and authorizing the Transaction as described herein.

Respectfully submitted,

/s/ Catherine Vasudevan

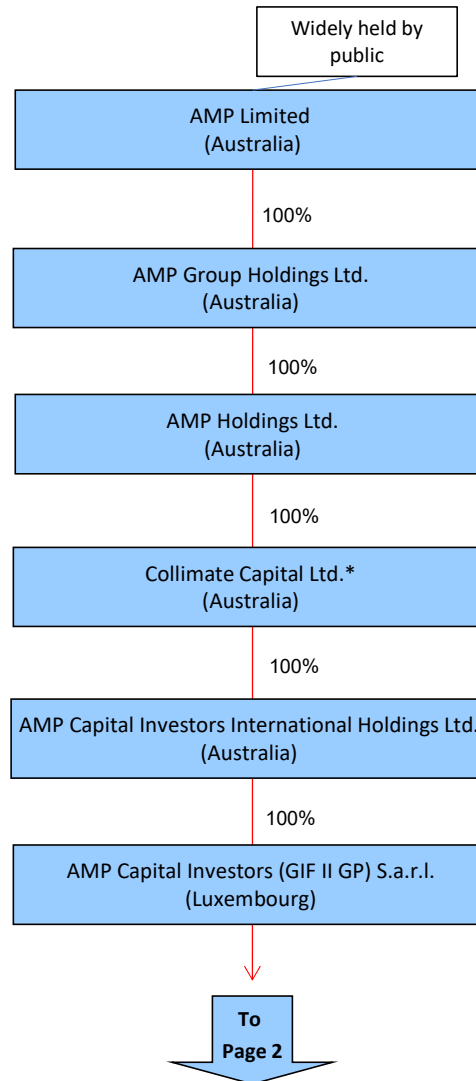
Catherine Vasudevan (PA I.D. No. 210254)
Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103-2921
215-963-5034 (tel)
215-963-5001 (fax)
catherine.vasudevan@morganlewis.com

July 26, 2022

EXHIBIT A

Diagrams of the Pre- and Post-Transaction Structures

Pre-Closing Ownership Structure

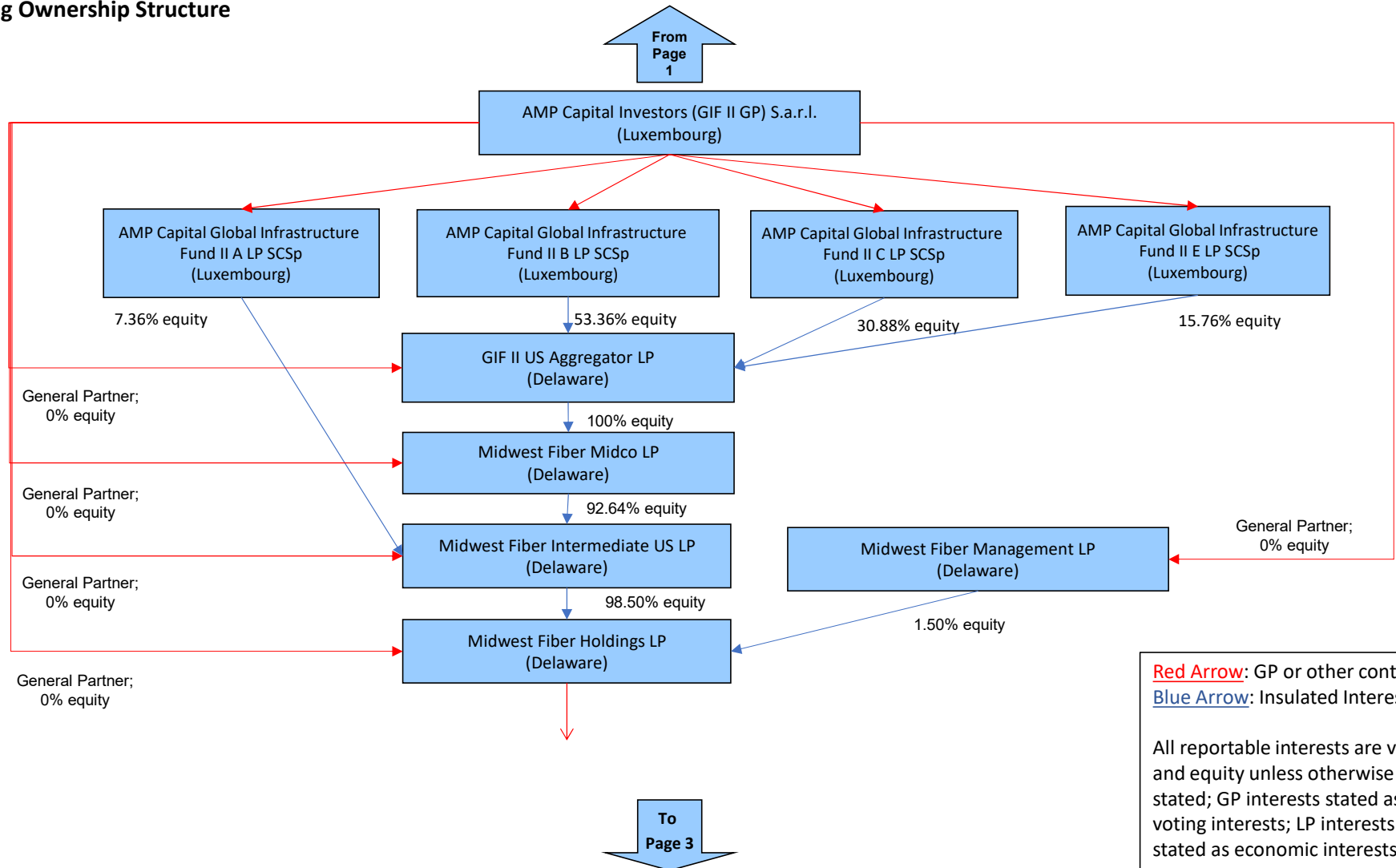


*In February 2022, AMP Capital Holdings Limited changed its name to Collimate Capital Ltd.

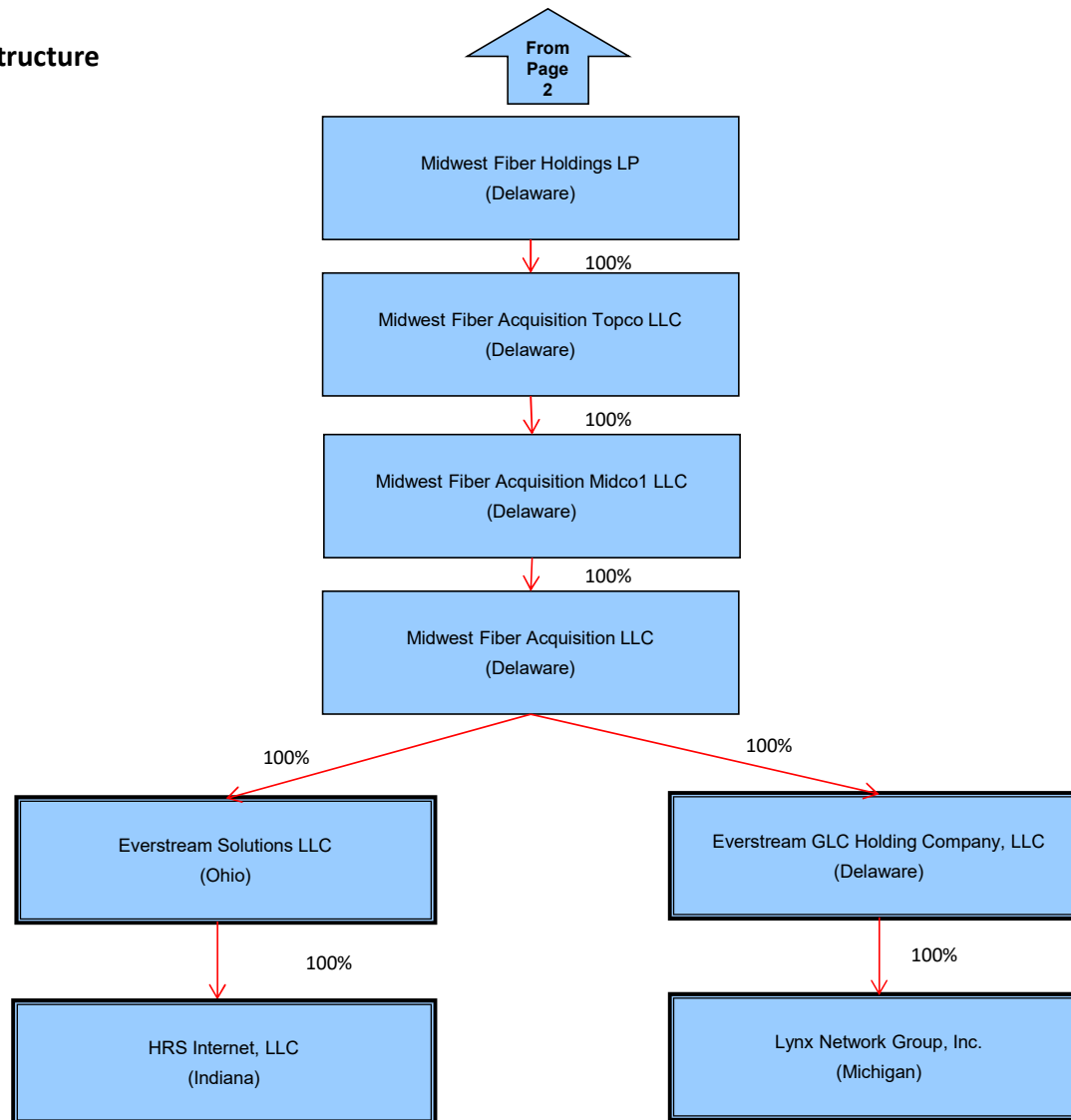
Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting and equity unless otherwise stated; GP interests stated as voting interests; LP interests stated as economic interests

Pre-Closing Ownership Structure



Pre-Closing Ownership Structure

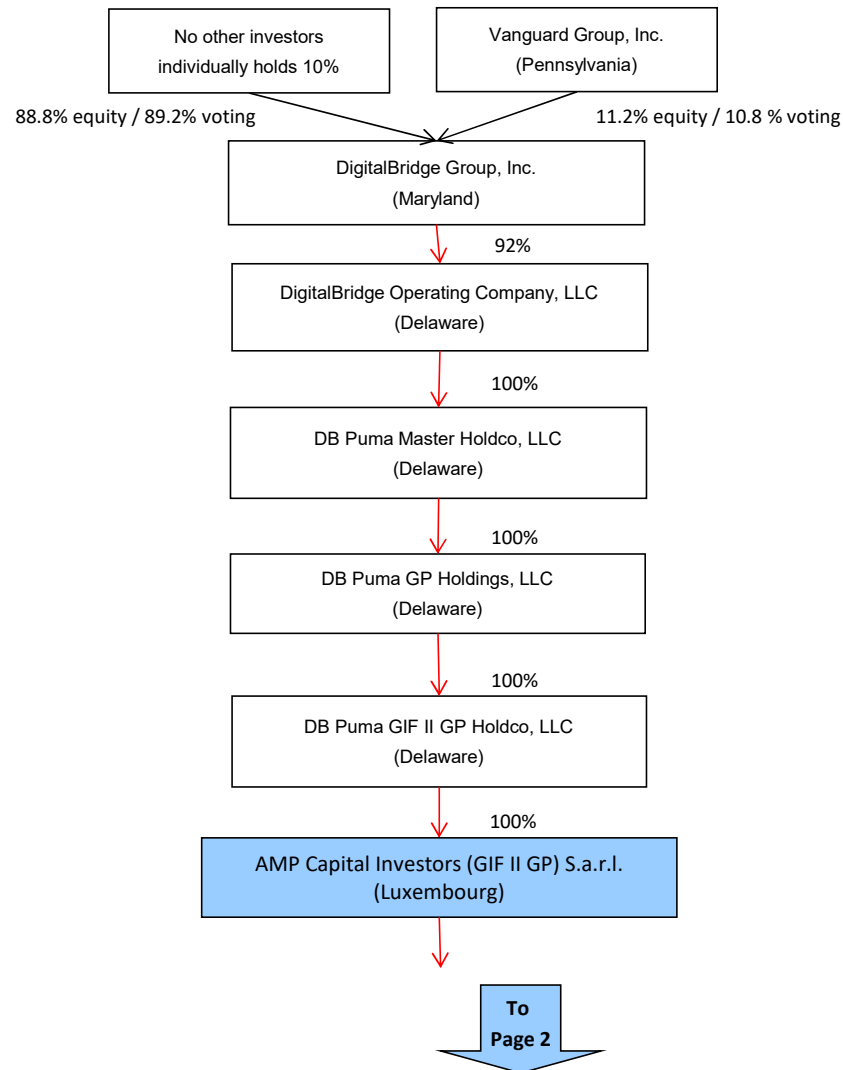


All entities in bolded boxes are
FCC Licenses

Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting
and equity unless otherwise
stated; GP interests stated as
voting interests; LP interests
stated as economic interests

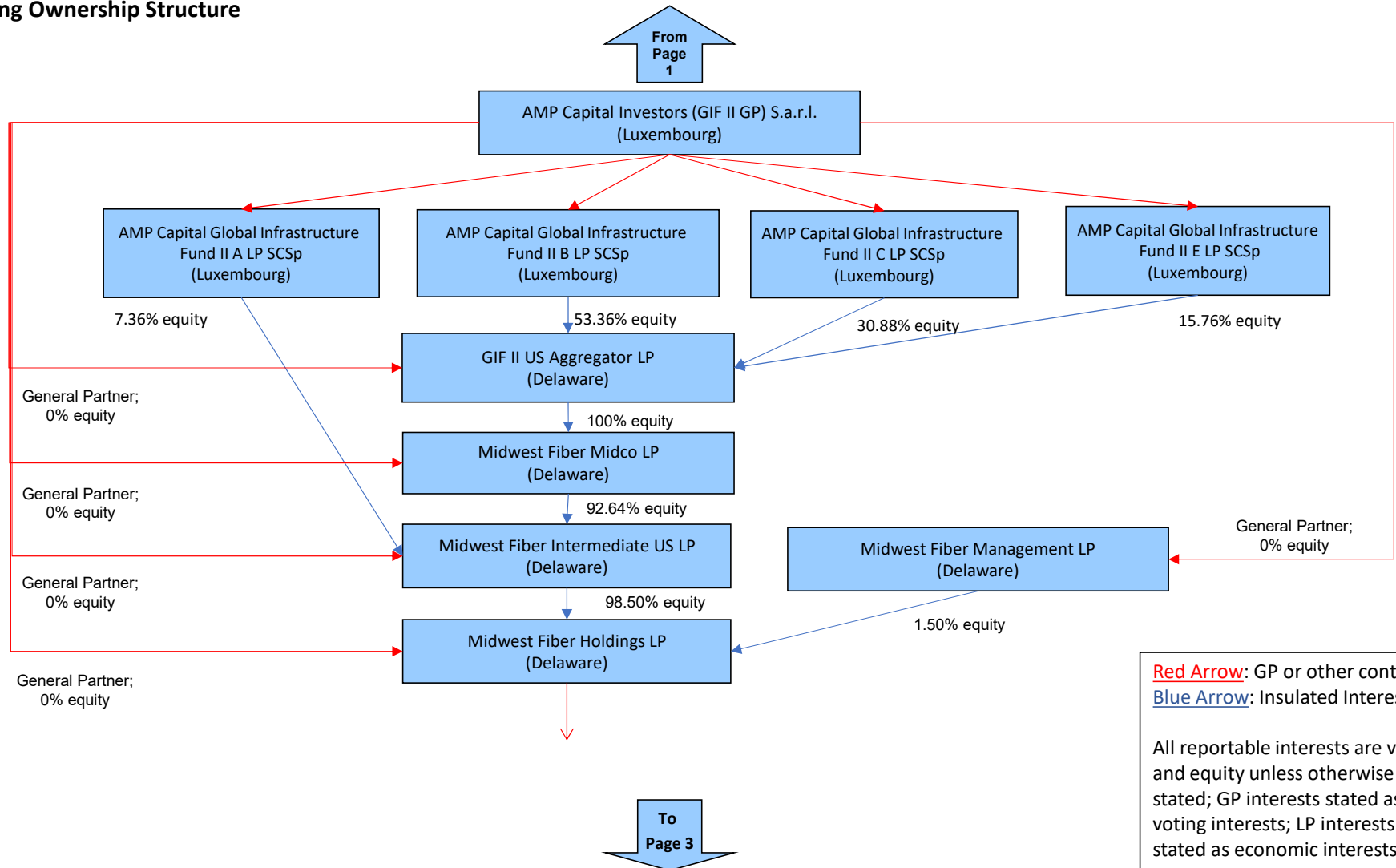
Post-Closing Ownership Structure



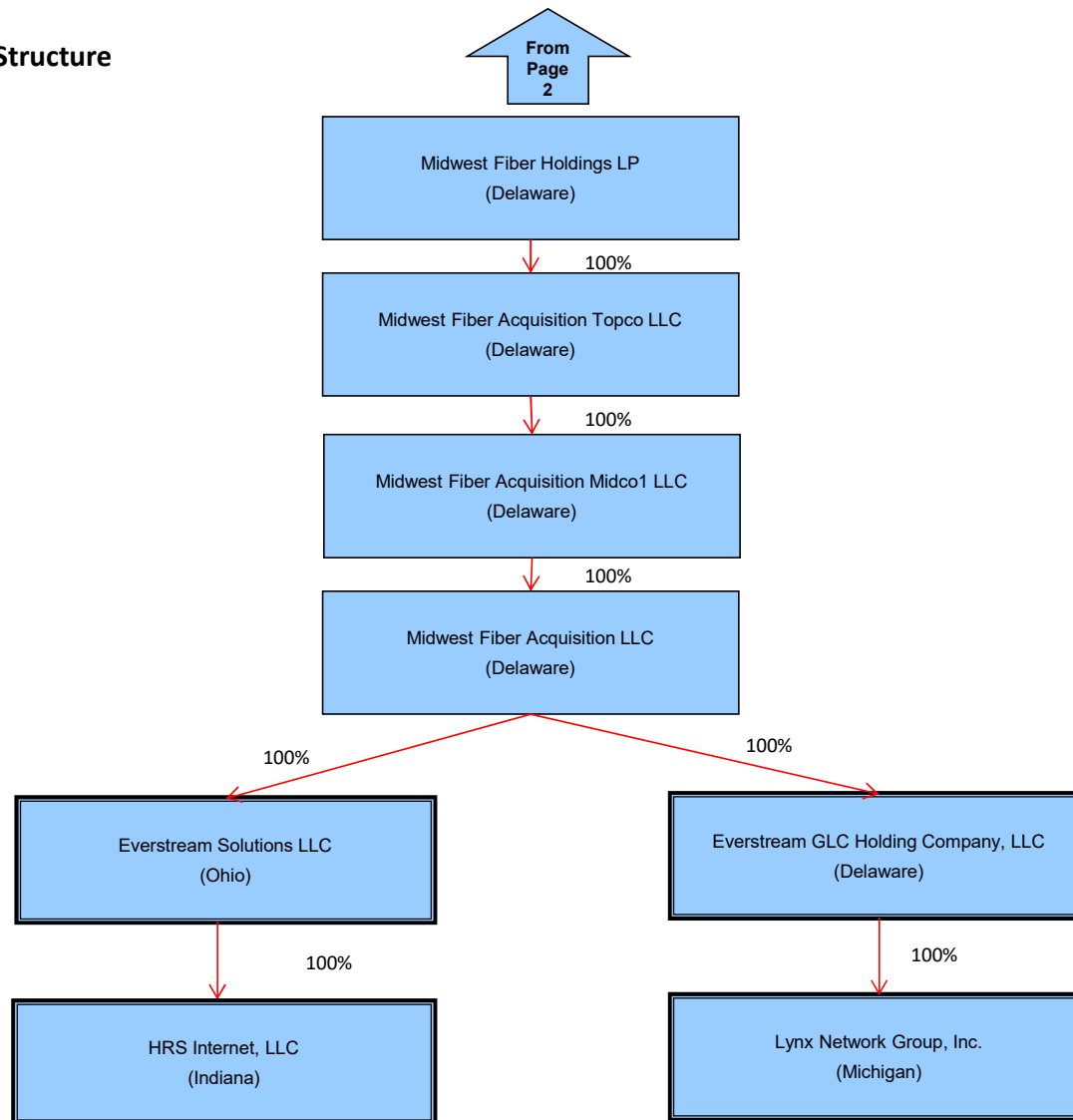
Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting and equity unless otherwise stated; GP interests stated as voting interests; LP interests stated as economic interests

Post-Closing Ownership Structure



Post-Closing Ownership Structure



All entities in bolded boxes are
 FCC Licenses

Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting
 and equity unless otherwise
 stated; GP interests stated as
 voting interests; LP interests
 stated as economic interests

EXHIBIT B

FCC Domestic and International Section 214 Application

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of the Application of	)	
	)	
AMP Capital Investors International	)	
Holdings Ltd.	)	WC Docket No. 22-_____
Transferor,	)	
	)	File No. ITC-T/C-2022_____
Everstream Solutions LLC,	)	File No. ITC-T/C-2022_____
Everstream GLC Holding Company LLC,	)	File No. ITC-T/C-2022_____
HRS Internet LLC,	)	
Lynx Network Group, Inc.	)	
Licensees,	)	
	)	
and	)	
	)	
DB Puma GIF II GP HoldCo, LLC	)	
Transferee,	)	
	)	
for Authority Pursuant to Section 214 of the	)	
Communications Act of 1934, as Amended, and	)	
Sections 63.04 and 63.24 of the Commission's	)	
Rules to Transfer Control of Domestic and	)	
International Section 214 Carriers	)	

JOINT APPLICATION

I. INTRODUCTION

A. Summary of Transaction

AMP Capital Investors International Holdings Ltd. ("Transferor"), Everstream Solutions LLC ("Solutions"), Everstream GLC Holding Company LLC ("GLC"), HRS Internet LLC ("HRS Internet"), and Lynx Network Group, Inc. ("Lynx" and collectively with Solutions, GLC, and HRS Internet, "Licensees"), and DB Puma GIF II GP HoldCo, LLC ("Transferee") (collectively, "Applicants") respectfully request authority pursuant to Section 214 of the Communications Act of 1934, as amended, 47 U.S.C. § 214 (the "Act"), and Sections 63.04 and 63.24 of the Rules of

the Commission, 47 C.F.R. §§ 63.04, 63.24, to transfer control of Licensees, entities that hold authority under Section 214 to provide domestic and international telecommunications services on a competitive basis, from Transferor to Transferee. Specifically, Transferor is selling its 100% ownership interest in AMP Capital Investors (GIF II GP) S.à.r.l., a Luxembourg company, to Transferee, resulting in a change in the voting control of Licensees (the “Transaction”). Following the Transaction, Licensees will continue to be indirect, wholly owned subsidiaries of Midwest Fiber Holdings LP, which will remain indirectly owned by four limited partnerships organized in Luxembourg (AMP Capital Global Infrastructure Fund II A LP, AMP Capital Global Infrastructure Fund II B LP, AMP Capital Global Infrastructure Fund II C LP, and AMP Capital Global Infrastructure Fund II E LP), collectively referred to as “GIF II,” with a 1.5% ownership interest held by management-owned vehicle (Midwest Fiber Management LP, a Delaware limited partnership (the “Management-Owned Vehicle”)).¹ AMP Capital Investors (GIF II GP) S.à.r.l. is the general partner of Midwest Fiber Holdings LP, the Management-Owned Vehicle, and the four Luxembourg limited partnerships.

Immediately following the Transaction, Licensees will continue to provide service to their existing customers under the same rates, terms, and conditions and without interruption. No assignment of licenses, assets, or customers will occur as a consequence of the proposed Transaction.

B. Request for Streamlined Processing

Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Sections 63.03 and 63.12 of the Commission’s Rules, 47 C.F.R. §§ 63.03 & 63.12.

¹ Applicants expect that each fund of GIF II will change their names to no longer use “AMP Capital.”

With respect to domestic authority, this Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) because, immediately following the Transaction:

1. Applicants (including their Affiliates, as that term is defined in Section 3(1) of the Act) combined will hold less than a ten percent (10%) share of the interstate, interexchange market;
2. Applicants and their Affiliates will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by dominant local exchange carriers (none of which is a party to the proposed Transaction); and
3. Neither the Applicants nor any of their Affiliates are regulated as dominant with respect to any service.

With respect to international authority, this Application is eligible for streamlined processing pursuant to Section 63.12(a)-(b) of the Commission's Rules, 47 C.F.R. § 63.12(a)-(b). In particular, none of the exclusionary criteria set forth in Section 63.12(c) applies as described more fully in Section V below. Moreover, Applicants are not affiliated with any dominant foreign carrier.

II. DESCRIPTION OF THE APPLICANTS

A. Transferor and Licensees

Transferor is headquartered in Australia and owns a global infrastructure equity investment management business. Transferor is wholly owned by Collimate Capital Limited ("Collimate Capital")² which is a global investment manager headquartered in Australia. Collimate Capital is a downstream subsidiary of AMP Limited, one of Australia's largest retail and corporate pension providers.

² In February 2022, AMP Capital Holdings Limited changed its name to Collimate Capital Ltd.

Transferor currently owns 100% of AMP Capital Investors (GIF II GP) S.à.r.l., the general partner of four Luxembourg limited partnerships referred to as GIF II. AMP Capital Investors (GIF II GP) S.à.r.l. is also the general partner of the following Delaware limited partnerships that are indirect owners of Licensees: GIF II US Aggregator LP, Midwest Fiber Midco LP, Midwest Fiber Intermediate US LP, the Management-Owned Vehicle, and Midwest Fiber Holdings LP. In turn, Midwest Fiber Holdings LP is the owner of the following Delaware limited liability companies: Midwest Fiber Acquisition Topco LLC, Midwest Fiber Acquisition Midco1 LLC, and Midwest Fiber Acquisition LLC (“Midwest”).

HRS Internet is a direct subsidiary of Solutions, Lynx is a direct subsidiary of GLC, and Solutions and GLC are direct subsidiaries of Midwest. Midwest, through the Licensees, is a super-regional network service provider bringing fiber-based Ethernet, internet and data center solutions to businesses throughout the Midwest and Mid-Atlantic. The company has more than 10,000 route miles and comprehensive data center connectivity at 100 Gbps. Its network allows businesses to operate a converged IP network capable of delivering robust voice and data services at speeds from 10 Mbps to 100 Gbps. Below are descriptions of the Licensees’ authorizations and states of operation:

- Solutions, an Ohio limited liability company, holds domestic and international Section 214 authorization as well as certificates to provide intrastate telecommunications services in Delaware, Kentucky, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, and West Virginia.
- GLC, a Delaware limited liability company, holds domestic and international Section 214 authorization as well as certificates to provide intrastate telecommunications services in Illinois, Indiana, Michigan, and Wisconsin.
- HRS Internet, an Indiana limited liability company, holds domestic and international Section 214 authorization as well as a certificate provide intrastate telecommunications services in Indiana.

- Lynx, a Michigan corporation, holds domestic Section 214 authorization and holds a certificate to provide intrastate telecommunications services in Michigan.

B. Transferee

For purposes of the Transaction, DigitalBridge Operating Company, LLC (“DBOC”), a Delaware limited liability company, formed the following Delaware limited liability companies as its subsidiaries: Transferee, DB Puma GP Holdings, LLC and DB Puma Master HoldCo, LLC, each a Delaware limited liability company. DBOC is a 92% owned subsidiary of DigitalBridge Group, Inc., a Maryland corporation, (“DigitalBridge”) (NYSE: DBRG). DigitalBridge is a leading global digital infrastructure firm. With a heritage of over 25 years investing in and operating businesses across the digital ecosystem including cell towers, data centers, fiber, small cells, and edge infrastructure, the DigitalBridge team manages a \$47 billion portfolio of digital infrastructure assets on behalf of its limited partners and shareholders.

III. DESCRIPTION OF THE TRANSACTION

On April 27, 2022, DigitalBridge, through DBOC and DigitalBridge Investment Holdco, LLC, a Delaware LLC (“DBIH”) and a 100% owned subsidiary of DBOC, entered into an Equity Purchase Agreement (“Agreement”) with AMP Group Holdings Limited and Transferor, pursuant to which DBOC will acquire certain interests comprising Transferor’s global infrastructure equity investment management business. Prior to completion of the Transaction, in accordance with this Agreement, DBIH will assign its right to directly acquire a 100% ownership interest in AMP Capital Investors (GIF II GP) S.à.r.l. to Transferee. Accordingly, pursuant to this Agreement, Transferee will acquire from Transferor a 100% ownership interest in AMP Capital Investors (GIF II GP) S.à.r.l. Upon completion, Transferee will have ownership and control of AMP Capital

Investors (GIF II GP) S.à.r.l. and will therefore have voting control of Licensees.³ Following the Transaction, Licensees will remain under the indirect voting control of AMP Capital Investors (GIF II GP) S.à.r.l., the general partner of Midwest Fiber Holdings LP, the Management-Owned Vehicle, and GIF II, and will continue to be indirect, wholly owned subsidiaries of Midwest Fiber Holdings LP which has its equity interests 100% owned by GIF II and the Management-Owned Vehicle.

For the Commission's reference, charts depicting the Applicants' current ownership structure, as well as the expected ownership structure post-closing, are provided as Exhibit A.

IV. PUBLIC INTEREST STATEMENT

Consummation of the Transaction will serve the public interest. Transferee, through DBOC and DigitalBridge, will bring substantial experience investing in communications infrastructure companies to its ownership of AMP Capital Investors (GIF II GP) S.à.r.l., the general partner of Midwest Fiber Holdings LP and GIF II. At the same time, the Transaction will have no adverse impact on Licensees' customers and will not alter the manner of service delivery or billing. Immediately following the Transaction, Licensees will continue to provide service to their customers at the same rates, terms, and conditions and without interruption.

As will be discussed below, the Transaction also will not create any new combinations that would adversely affect competition in any domestic market or on any U.S.-international route. In addition, Transferee does not currently control, and is not affiliated with, any foreign carrier regulated as dominant on any U.S.-international route.

³ Upon completion of the Transaction, DBOC, through its wholly owned entity, DB Puma Master HoldCo, LLC, and other wholly owned entities, also will acquire an indirect 5.69% equity interest in AMP Capital Global Infrastructure Fund II B LP SCSp. As noted above, DBOC is a 92% owned subsidiary of DigitalBridge.

V. INFORMATION REQUIRED BY SECTION 63.24(e)

Pursuant to Section 63.24(e)(2) of the Commission's Rules, the Applicants submit the following information requested in Section 63.18 (a)-(d) and (h)-(p) in support of this Application:

63.18 (a) Name, address and telephone number of each Applicant:

Licensees

Everstream Solutions LLC **FRN 0027345693**
1228 Euclid Ave #250
Cleveland, OH 44115
Tel: 216-242-2874

Everstream GLC Holding Company LLC **FRN 0025511759**
1228 Euclid Ave #250
Cleveland, OH 44115
Tel: 216-242-2874

HRS Internet LLC **FRN 0013208244**
1228 Euclid Ave #250
Cleveland, OH 44115
Tel: 216-242-2874

Lynx Network Group, Inc. **FRN 0019434166**
1228 Euclid Ave #250
Cleveland, OH 44115
Tel: 216-242-2874

Transferor

AMP Capital Investors International Holdings Ltd. **FRN 0030945844**
Level 30
50 Bridge Street
Sydney NSW 2000
Australia

Transferee

DB Puma GIF II GP HoldCo, LLC **FRN 0032454308**
750 Park of Commerce Drive, Suite 210
Boca Raton, Florida 33487
Tel: 561-570-4644

63.18 (b) Jurisdiction of Organizations:

Licensees: Solutions is an Ohio limited liability company.
GLC is a Delaware limited liability company.
HRS Internet is an Indiana limited liability company.
Lynx is a Michigan corporation.

Transferor: AMP Capital Investors International Holdings Ltd. is an Australian limited company.

Transferee: DB Puma GIF II GP HoldCo, LLC is a Delaware limited liability company.

63.18 (c) (Answer to Question 10) Correspondence concerning this Application should be sent to:

For Transferor and Licenses:

Russell Blau
Danielle Burt
Leetal Weiss
Morgan, Lewis & Bockius LLP
1111 Pennsylvania Ave., N.W.
Washington, DC 20004
202-739-3000 (tel)
202-739-3001 (fax)
russell.blau@morganlewis.com
danielle.burt@morganelewis.com
leetal.weiss@morganlewis.com

with a copy to:

Joanne McKnight
AMP Capital
6th Floor, Berkeley Square House,
Berkeley Square, London, W1J 6BZ, UK
+44 (0) 20 7659 9236 (tel)
joanne.mcknight@ampcapital.com

and

Dereck Wischmeyer
Everstream
1228 Euclid Ave #250
Cleveland, OH 44115
(216) 923-2333
dwischmeyer@everstream.net

For Transferee:

F. William LeBeau
Peter M. Connolly
Holland & Knight LLP
800 17th Street NW
Washington, D.C. 20006
202-955-3000 (tel)
202-955-5564 (fax)
Bill.LeBeau@hklaw.com
Peter.Connolly@hklaw.com

with a copy to:

Ronald M. Sanders
DigitalBridge Group, Inc.,
590 Madison Avenue, 34th Floor
New York, New York 10022
212-230-3306 (tel)
Ron.Sanders@DigitalBridge.com

63.18 (d) (Answer to Question 10) Section 214 Authorizations

Transferor: Transferor does not hold Section 214 authority.

Licensees: Solutions holds blanket domestic Section 214 authority and holds international Section 214 authority granted in File No. ITC-214-20160120-00027.

GLC holds blanket domestic Section 214 authority and holds international Section 214 authority granted in File No. ITC-214-19970116-00027 as assigned in IB File No. ITC-ASG-20160426-00157.

HRS Internet holds domestic Section 214 authority and holds international Section 214 authority granted in File No. ITS-214-20080612-00268

Lynx holds blanket domestic Section 214 authority.

Transferee: Transferee does not hold Section 214 authority.

63.18 (h) (Answer to Questions 11 and 12) Ownership

The following persons or entities hold or will hold, directly or indirectly, a 10% or greater interest in Licensees:⁴

Pre-Transaction Ownership

Name: Everstream Solutions LLC (“Solutions”)
Address: 1228 Euclid Ave #250
Cleveland, OH 44115
Interest: 100% directly in HRS Internet LLC
Citizenship: Ohio

Name: Everstream GLC Holding Company, LLC (“GLC”)
Address: 1228 Euclid Ave #250
Cleveland, OH 44115
Interest: 100% directly in Lynx Network Group, Inc.
Citizenship: Delaware

Name: Midwest Fiber Acquisition LLC (“Midwest”)
Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036
Interest: 100% directly in Solutions and GLC
Citizenship: Delaware

⁴ While the Commission’s rules for combined domestic and international applications requires this information only for the transferee, see 47 C.F.R. §§ 63.04(b), 63.24(e)(2), Applicants are providing ownership information for all parties.

Name: Midwest Fiber Acquisition Midco1 LLC
Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036
Interest: 100% indirectly in Licensees through Midwest
Citizenship: Delaware

Name: Midwest Fiber Acquisition Topco LLC
Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036
Interest: 100% indirectly in Licensees through Midwest Fiber Acquisition
Midco1 LLC
Citizenship: Delaware

Name: Midwest Fiber Holdings LP
Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036
Interest: 100% indirectly in Licensees through Midwest Fiber Acquisition
Topco LLC
Citizenship: Delaware

Name: Midwest Fiber Intermediate US LP
Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036
Ownership: 98.50% equity indirectly in Licensees through Midwest Fiber
Holdings LP
Citizenship: Delaware

Name: Midwest Fiber Midco LP
Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036
Ownership: 91.25% equity indirectly in Licensees through Midwest Fiber
Intermediate US LP
Citizenship: Delaware

Name: AMP Capital Global Infrastructure Fund II A LP SCSp
Address: 16, rue Eugène Ruppert
Luxembourg L-2453
Grand Duchy of Luxembourg
Ownership: 7.25% equity indirectly in Licensees through Midwest Fiber
Intermediate US LP

Citizenship: Luxembourg

Name: GIF II US Aggregator LP

Address: c/o AMP Capital Investors (US) Limited
1114 Avenue of the Americas, 16th floor
New York, NY 10036

Ownership: 91.25% equity indirectly in Licensees through Midwest Fiber Midco LP

Citizenship: Delaware

Name: AMP Capital Global Infrastructure Fund II B LP SCSp

Address: 16, rue Eugène Ruppert
Luxembourg L-2453
Grand Duchy of Luxembourg

Ownership: 48.69% equity indirectly in Licensees through GIF II US Aggregator LP

Citizenship: Luxembourg

Name: AMP Capital Global Infrastructure Fund II C LP SCSp.

Address: 16, rue Eugène Ruppert
Luxembourg L-2453
Grand Duchy of Luxembourg

Ownership: 28.18% equity indirectly in Licensees through GIF II US Aggregator LP

Citizenship: Luxembourg

Name: AMP Capital Global Infrastructure Fund II E LP SCSp

Address: 16, rue Eugène Ruppert
Luxembourg L-2453
Grand Duchy of Luxembourg

Ownership: 14.38% equity indirectly in Licensees through GIF II US Aggregator LP

Citizenship: Luxembourg

Name: AMP Capital Investors (GIF II GP) S.à.r.l.

Address: 16, rue Eugène Ruppert
Luxembourg L-2453
Grand Duchy of Luxembourg

Ownership: 100% voting indirectly in Licensees as General Partner of Midwest Fiber Holdings LP, Midwest Fiber Intermediate US LP, Midwest Fiber Midco LP, GIF II US Aggregator LP, AMP Capital Global Infrastructure Fund II A LP SCSp, AMP Capital Global Infrastructure Fund II B LP SCSp, AMP Capital Global Infrastructure Fund II C LP SCSp, AMP Capital Global Infrastructure Fund II E LP SCSp, Midwest Fiber Management, LP

Citizenship: Luxembourg

Name: AMP Capital Investors International Holdings Ltd.
Address: Level 30 50 Bridge Street Sydney NSW 2000 (Australia)
Ownership: 100% voting indirectly in Licensees through GIF II GP
Citizenship: Australia

Name: Collimate Capital Ltd.
Address: Level 30 50 Bridge Street Sydney NSW 2000 (Australia)
Ownership: 100% voting indirectly in Licensees through AMP Capital Investors International Holdings Ltd.
Citizenship: Australia

Name: AMP Holdings Ltd.
Address: Level 29 50 Bridge Street, Sydney NSW 2000 (Australia)
Ownership: 100% voting indirectly in Licensees through Collimate Capital Ltd.
Citizenship: Australia

Name: AMP Group Holdings Ltd.
Address: Level 29 50 Bridge Street, Sydney NSW 2000 (Australia)
Ownership: 100% voting indirectly in Licensees through AMP Holdings Ltd.
Citizenship: Australia

Name: AMP Limited
Address: Level 29 50 Bridge Street, Sydney NSW 2000 (Australia)
Ownership: 100% voting indirectly in Licensees through AMP Group Holdings Ltd.
Citizenship: Australia

Post-Transaction Ownership

All of the above information up to and including AMP Capital Investors (GIF II GP) S.à.r.l. will remain post-closing. Below is the information about the post-closing owners of AMP Capital Investors (GIF II GP) S.à.r.l.

Name: DB Puma GIF II GP HoldCo, LLC
Address: 750 Park of Commerce Drive, Suite 210
Boca Raton, Florida 33487
Ownership: 100% voting indirectly in Licensees through 100% ownership of AMP Capital Investors (GIF II GP) S.à.r.l.
Citizenship: Delaware

Name: DB Puma GP Holdings, LLC
Address: 750 Park of Commerce Drive, Suite 210
Boca Raton, Florida 33487

Ownership: 100% voting indirectly in Licensees through 100% ownership of DB Puma GIF II GP HoldCo, LLC

Citizenship: Delaware

Name: DB Puma Master Holdco, LLC

Address: 750 Park of Commerce Drive, Suite 210
Boca Raton, Florida 33487

Ownership: 100% voting indirectly in Licensees through 100% ownership of DB Puma GP Holdings, LLC (as well as 2.77% equity indirectly in Licensees through other wholly owned subsidiaries of DB Puma Master Holdco, LLC)

Citizenship: Delaware

Name: DigitalBridge Operating Company, LLC (“DBOC”)

Address: 750 Park of Commerce Drive, Suite 210, Boca
Raton, Florida 33487

Ownership: 100% voting (and 2.77% equity) indirectly in Licensees through 100% ownership of DB Puma Master Holdco, LLC

Citizenship: Delaware

Name: DigitalBridge Group, Inc. (“DigitalBridge”)

Address: 750 Park of Commerce Drive, Suite 210
Boca Raton, Florida 33487

Ownership: 100% voting (and 2.55% equity) indirectly in Licensees through 92% ownership of DBOC and as Managing Member of DBOC

Citizenship: Maryland

Name: Vanguard Group, Inc.

Address: 100 Vanguard Blvd.
Malvern, PA 19355

Ownership: 10.8% voting (and 0.29% equity) indirectly in Licensees through holding 11.2% of DigitalBridge’s issued and outstanding Class A common stock⁵

⁵ DigitalBridge’s Class A common stock has one vote per share and the issued and outstanding Class A common stock represents 96.4% of the voting power in DigitalBridge. DigitalBridge’s Class B common stock has 36.5 votes per share and the issued and outstanding Class B common stock represents the remaining 3.6% of the voting power in DigitalBridge. Except with respect to said voting rights, Class A Common Stock and Class B Common Stock have the same rights and privileges. In addition to Vanguard Group, Inc., other entities have been reported to the Securities and Exchange Commission (“SEC”) as owning a 5% or greater interest in DigitalBridge’s issued and outstanding Class A common stock. One of these owners is Wafra Strategic Holdings LP (“Wafra”), a Bermuda entity that holds 8.8% of the issued and outstanding Class A Common Stock (representing 8.5% of the voting power) in DigitalBridge Group, Inc. Wafra’s upstream owners includes three Delaware companies: WSH GP LLC (general partner of Wafra), Wafra Funds GP Inc. (managing member of WSH GP LLC), and Wafra Inc. (100% of

Citizenship: Pennsylvania

No other person or entity is expected to hold a 10% or greater ownership interest in the Licensees pursuant to the Commission's attribution rules as a result of the consummation of the Transaction.

None of Licensees, Transferor, or Transferee has any interlocking directorates with a foreign carrier.

63.18 (i) (Answer to Question 14) Foreign Carrier Affiliation

Transferor and Licensees certify none of them is a foreign carrier and none of them are currently affiliated with a foreign carrier within the meaning of Section 63.09(d) of the Commission's Rules.

Transferee certifies it is not a foreign carrier and is affiliated with the following non-dominant foreign carriers within the meaning of Section 63.09(d) of the Commission's Rules:

1. Zayo Canada Inc.
2. Allstream Business Inc.
3. Zayo Group EU Limited
4. Zayo Group UK Limited
5. Emerald Bride Fibres Limited
6. Zayo France SAS
7. Zayo Infrastructure Belgium NV
8. Zayo Infrastructure Deutschland GmbH
9. Zayo Infrastructure France SA
10. Zayo Infrastructure Ireland Ltd.
11. Zayo Infrastructure Nederland B.V.
12. Zayo Infrastructure Switzerland AG
13. Zayo Infrastructure (UK) Ltd.
14. Zayo Singapore Pte. Ltd.
15. Zayo Group (HK) Limited
16. Zayo Group Australia Pty. Ltd.

Wafra Funds GP Inc.). Wafra Inc. is 100% owned by The Public Institution for Social Security, a Kuwait entity. Pursuant to Wafra's SEC filings, Wafra's holdings in DigitalBridge constitute passive investments.

A separate filing is being submitted to Commission, pursuant to 47 U.S.C. § 310(b)(4) and 47 C.F.R. § 1.500 et seq., to obtain authority, if necessary, for Wafra and The Public Institution for Social Security to hold a greater than 5% indirect voting interest in Licensees' U.S. parent, Midwest, upon completion of the Transaction. The Commission previously granted authority for Midwest to have aggregate indirect foreign equity and voting interests of 100% and granted specific approval for certain non-U.S. entities to indirectly hold 5% or more of Midwest. *See* Section 214 Application Granted to the Acquisition of certain Assets of the PEG Bandwidth Entities, Southern Light, LLC, and Uniti Fiber LLC by Everstream Solutions, LLC, *Public Notice*, Petition for Declaratory Ruling Granted, DA 21-576 (dated May 14, 2021).

17. Zayo infrastructure Spain, S.L.
18. Zayo Italy S.r.l.
19. Zayo Enterprise France SASU
20. Zayo Group South Africa (PTY) Ltd.
21. Zayo Infraestructura Brazil LTDA.
22. Zayo Infrastructure Mexico, S. de R.L. de C.V.

Beyond these affiliated entities, neither DigitalBridge nor Zayo Group share officers or directors with any foreign carrier.

63.18 (j) (Answer to Question 15) Operations to Foreign Destinations

Transferee certifies that, through its acquisition of control of Licensees, Transferee does not seek to provide international telecommunications services to any destination country where two or more foreign carriers (or parties that control foreign carriers) own, in the aggregate, more than 25 percent of Transferee and are parties to, or the beneficiaries of, a contractual relation affecting the provision or marketing of international basic telecommunications services in the United States. As certified in (i) above, Transferee is affiliated with multiple non-dominant foreign carriers.

63.18 (k) Foreign Carrier Certification

Transferee certifies that each country listed in (i) above is a Member of the World Trade Organization (“WTO”). None of the foreign carriers listed in (i) above is on the Commission’s List of Foreign Carriers that are Presumed to Possess Market Power in Foreign Telecommunications Markets, released on January 26, 2007. In addition, each of these foreign carriers offers services in competition with dominant foreign carriers and others.

63.18 (m) (Answer to Question 16) Presumption of Non-Dominance

Transferee qualifies for a presumption of non-dominance pursuant to Section 63.10(a)(1) and (3) of the Commission’s Rules, 47 C.F.R. § 63.10(a)(1, 3), because Transferee is not a foreign carrier itself and is affiliated only with foreign carriers that do not have more than a 50% market share in the international transport and local access markets in the countries they serve. Upon completion of the Transaction, the Licensees will qualify for a presumption of non-dominance or the same reasons.

63.18 (n) No Special Concessions

Applicants certify that they have not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

63.18 (o) Anti-Drug Abuse Act Certification

Applicants certify that they are not subject to denial of federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988. *See* 21 U.S.C. § 853a; *see also* 47 C.F.R. §§ 1.2001-1.2003.

63.18 (p) Eligibility for Streamlined Processing

Applicants respectfully submit that this Application is eligible for streamlined processing pursuant to Section 63.12(a)-(b) of the Commission's Rules, 47 C.F.R. § 63.12(a)-(b). Although Transferee is affiliated with foreign carriers, it qualifies for a presumption of non-dominance under Section 63.10(a)(1) and (3) because it is not a foreign carrier itself and each of its affiliates lacks a 50% market share in the relevant service market on the foreign end of the route. Applicants are not affiliated with any dominant U.S. carrier whose international switched or private line services Applicants seek authority to resell, and Applicants will not be so affiliated post-close. None of the other exclusions described in Section 63.12(c) applies.

VI. INFORMATION REQUIRED BY SECTION 63.04

In lieu of an attachment, pursuant to Commission Rule 63.04(b), 47 C.F.R. § 63.04(b), Applicants submit the following information in support of their request for domestic Section 214 authority to address the requirements set forth in Commission Rule 63.04(a)(6)-(12), 47 C.F.R. § 63.04(a)(6)-(12):

63.04(a)(6): Description of the Transaction

A description of the Transaction is set forth in **Section III** above.

63.04(a)(7): Description of Geographic Areas in which the transferor and transferee (and affiliates) offer domestic telecommunications services and what services are provided in each area

The Applicants and their affiliates offer domestic telecommunications services in the U.S. as follows:

Transferor: Transferor is not authorized and does not itself provide domestic telecommunications services.

Licensees: Solutions provides intrastate telecommunications services in Delaware, Maryland, Missouri, New Jersey, New York, Ohio, Pennsylvania, and West Virginia. GLC provides intrastate telecommunications services in Illinois, Indiana, Michigan, and Wisconsin. HRS Internet provides intrastate services in Indiana. Lynx provides intrastate telecommunications services in Michigan.

Transferee: Transferee is not authorized to provide domestic telecommunications services but is affiliated with the following companies that provide competitive domestic telecommunications services:

Licensee	Type	States Served
Zayo Group, LLC	CLEC, CAP, IXC	District of Columbia and every state except Alaska
Electric Lightwave, LLC	CLEC, IXC	AL, AR, AZ, CA, CO, DE, FL, GA, HI, ID, IL, IN, IA, KS, KY, LA, MN, MT, ME, MD, MA, MI, MS, MO, NV, ND, NJ, NM, NY, NC, OR, OH, OK, PA, SC, TX, UT, VT, VA, WA, WI and WY

Funds affiliated with DigitalBridge have a 45.2% interest in Zayo Group, LLC (“Zayo Group”) in the following way. Zayo Group is a Delaware limited liability company and wholly-owned subsidiary of Zayo Group Holdings, Inc. (“Holdings”), a Delaware corporation. Holdings is directly wholly-owned by Front Range JV LP, a Delaware limited partnership, which is 45.2 percent owned by funds affiliated with DigitalBridge.

Zayo Group holds blanket domestic Section 214 authority to provide interstate telecommunications services and holds international Section 214 authority to provide facilities-based or resold international services pursuant to FCC File No. ITC-214-20091106-00475. Zayo Group is authorized to provide competitive local exchange, competitive access, and/or interexchange in the District of Columbia and every state except Alaska. The primary telecommunications service offerings of Zayo Group include high-capacity bandwidth services such as private line, Ethernet, wavelength, and higher services as well as wireless backhaul services. Zayo Group provides wireless backhaul services in the following states: Alaska, Alabama, Arizona, California, Colorado, the District of Columbia, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Missouri, Minnesota, Michigan, Mississippi, Montana, North Carolina, New Jersey, New Mexico, Nevada, New York, Ohio, Oregon, Pennsylvania, Tennessee, Texas, Utah, Virginia, Washington, Wisconsin, and Wyoming.

Zayo Group's direct subsidiary Allstream Business US, LLC (“Allstream US”), an Oregon limited liability company, holds international Section 214 authority to provide public switched and resold international services pursuant to FCC File No. ITC-214-19970820-00500. In turn, Allstream US owns 100% of Electric Lightwave, LLC (“Electric Lightwave”), a Delaware LLC.

Electric Lightwave, LLC (“Electric Lightwave”), a wholly owned direct subsidiary of Allstream US, and an indirect subsidiary of Zayo Group, provides business and carrier customers a suite of integrated telecommunications products and services (including competitive local exchange, interexchange data, Internet access, and broadband transport services) primarily in metropolitan areas in Arizona, California, Colorado, Idaho,

Minnesota, Montana, Nevada, North Dakota, Oregon, Utah, and Washington. Electric Lightwave is also authorized to provide intrastate interexchange services in Alabama, Arkansas, Delaware, Florida, Georgia, Hawaii, Illinois (and competitive local exchange), Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, Missouri, New Jersey, New Mexico, New York (also authorized to provide local exchange services), North Carolina, Ohio (and competitive local exchange), Oklahoma, Pennsylvania, South Carolina, Texas (and competitive local exchange services), Vermont, Virginia, Wisconsin, and Wyoming. Electric Lightwave holds blanket domestic Section 214 authority to provide interstate telecommunications services and holds international Section 214 authority to provide public switched and resold international services pursuant to FCC File Nos. ITC-214-19940415-00137, ITC-214-19980619-00425, ITC-214-20051011-00431, & ITC-214-19990729-00490.

The Transaction raises no competitive issues in any domestic market. Licensees will remain separate companies from DigitalBridge's affiliates, managed by separate officers and an independent Board of Directors. Further, any overlapping lit fiber service territories between Licensees and DigitalBridge's affiliates are primarily in metropolitan areas of Chicago and East St. Louis, Illinois; Indianapolis and South Bend, Indiana; Grand Rapids, Lansing and Southfield, Michigan; St. Louis, Missouri; and Akron, Cleveland, Columbus, Garfield Heights, and Youngstown, Ohio. Licensees and DigitalBridge's affiliates face robust competition in these metropolitan areas from an array of competitive fiber suppliers including the incumbent LEC, AT&T; cable operators, Charter and Comcast; and other competitive fiber suppliers such as Crown Castle, Bluebird Network, Windstream, Frontier, and 123.Net, Inc.

63.04(a)(8): Streamlining Categorization

This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) of the Commission's Rules because, immediately following the Transaction, (1) Applicants (including their Affiliates, as that term is defined in Section 3(1) of the Act) combined will hold less than a ten percent (10%) share of the interstate, interexchange market; (2) Applicants and their Affiliates will provide competitive telephone exchange services or exchange access services exclusively in geographic areas served by dominant local exchange carriers (none of which is a party to the proposed Transaction); and (3) neither the Applicants nor any of their Affiliates are regulated as dominant with respect to any service.

63.04(a)(9): Additional FCC Applications

By this Application, Applicants seek authority with respect to both international and domestic Section 214 authorizations (this Application is being separately and concurrently filed with respect to both types of authorities in compliance with Commission Rule 63.04(b), 47 C.F.R. § 63.04(b)). Applicants are also filing a Form 603 with respect to the Common Carrier Fixed Point to Point Microwave wireless licenses held by Solutions.

In addition, a request is being submitted, pursuant to 47 U.S.C. § 310(b)(4) and 47 C.F.R. §1.500 et seq., to obtain authority, if necessary, for additional non-U.S. entities to indirectly hold a greater than 5% voting in Licensees. Such request will update the Petition for Declaratory Ruling previously granted by the Commission. *See* Section 214 Application Granted to the Acquisition of certain Assets of the PEG Bandwidth Entities, Southern Light, LLC, and Uniti Fiber LLC by Everstream Solutions, LLC, *Public Notice*, Petition for Declaratory Ruling Granted, DA 21-576 (dated May 14, 2021).

63.04(a)(10): Special Consideration Requests

Although neither party to the Transaction is facing imminent business failure, prompt completion of the Transaction is important to ensure that Applicants can obtain the benefits described in this Application. Accordingly, Applicants respectfully request that the Commission approve this Application expeditiously.

63.04(a)(11): Waiver Requests

No waiver requests are being filed in conjunction with this Application. However, as noted above, a request is being submitted in connection with the previously granted Petition for Declaratory Ruling pursuant to 47 U.S.C. § 310(b)(4) and 47 C.F.R. §1.500 et seq.

63.04(a)(12): Public Interest Statement

A statement showing how grant of the Application will serve the public interest, convenience, and necessity is provided in **Section IV** above.

Universal Service Fund Information

Pursuant to the Commission's Public Notice, DA 22-436 (rel. April 19, 2022), Applicants provide the following Universal Service Fund ("USF") information:

- None of Licensees receive USF high cost support.
- None of Licensees are Eligible Telecommunications Carriers under section 214(e) of the Act.
- None of the Licensees has been awarded funding under Connect America Fund (CAF) Phase II or the Rural Digital Opportunity Fund.
- There are no study area codes (SACs) for Licensees.
- None of the Licensees participate in the Lifeline program, Emergency Broadband Benefit program, or the Affordable Connectivity Program.

With respect to the Transferee, neither the Transferee nor any DigitalBridge or Zayo Group entity has a study area code or participates in the Lifeline program, Emergency Broadband Benefit Program, or Affordable Connectivity Program. Neither the Transferee nor any of the Transferee's affiliates, as identified above, receive USF high cost support or is an Eligible Telecommunications Carrier under Section 214(e) of the Communications Act or have been awarded funding under the

Connect America Fund (“CAF”) Phase II or the Rural Digital Opportunity Fund. However, some of the Transferee’s affiliates do participate indirectly in universal service programs as further explained below.

Zayo Group owns 100% of Commodore Holdco, LLC (“Commodore”) and its indirect wholly-owned subsidiaries, ENA Healthcare Services, LLC (“ENA-H”) and ENA-S (collectively with ENA-H, the “ENA Subsidiaries”) are direct, wholly-owned subsidiaries of Education Networks of America, Inc. (“ENA” and together with the ENA Subsidiaries, “ENA” OpCos”). ENA is a Delaware corporation and direct, wholly-owned subsidiary of ENA Holding Corporation (“ENA Holding”), a Georgia corporation. ENA Holding is a holding company that does not provide any services. ENA Holding is a direct, wholly-owned subsidiary of Commodore Holdco, LLC (“Holdco”).

The ENA OpCos provide Infrastructure-as-a-Service (“IaaS”) and managed communications services to K-12 schools, libraries, and rural healthcare facilities, including broadband, Wi-Fi/LAN, IP Voice, and video. Their managed networks also include information solutions, instructional and productivity tools, and third-party applications that are used in tandem with their proprietary products. The ENA OpCos currently provide services primarily to school districts and libraries that participate in the Schools and Libraries “E-Rate” program and rural healthcare providers that participate in the Rural Health Care (“RHC”) Program.

One or both of the ENA Subsidiaries provides one or more of their services to schools, libraries, of rural health care providers in the following states: Arizona, Arkansas, California, Colorado, Florida, Georgia, Indiana, Kansas, Minnesota, Missouri, New Mexico, Oklahoma, Oregon, Tennessee, Texas, Utah, Washington, and West Virginia. Each of the ENA Subsidiaries holds blanket domestic Section 214 authority but neither holds international Section 214 authorization.

VII. CONCLUSION

Based on the foregoing, the Applicants respectfully submit that the public interest, convenience, and necessity would be furthered by grant of this Application.

Respectfully submitted,

/s/ F. William LeBeau
F. William LeBeau
Peter Connolly
Holland & Knight LLP
800 17th Street N.W.
Washington, DC 20006
202-955-3000 (tel)
202-955-5564 (fax)
bill.lebeau@hklaw.com
peter.connolly@hklaw.com

Counsel for Transferee

Date: July 25, 2022

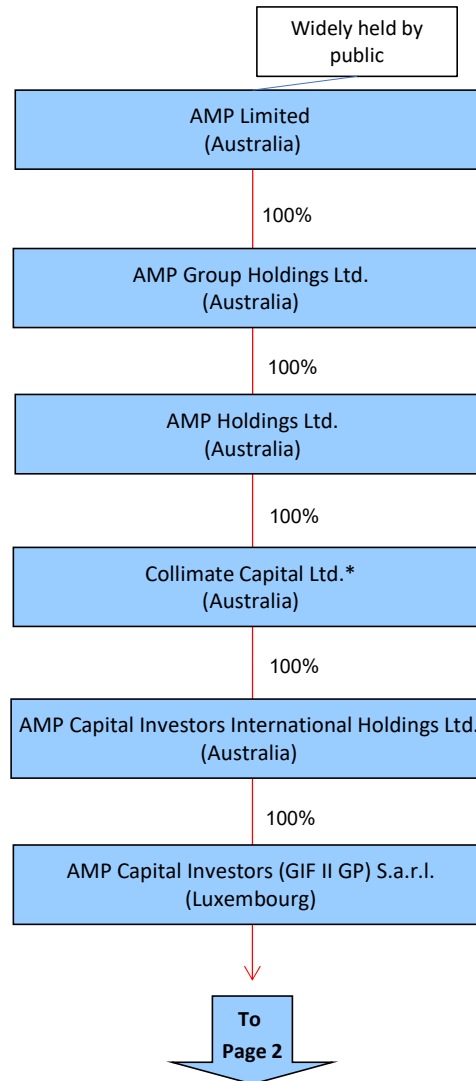
/s/ Danielle Burt _____
Russell Blau
Danielle Burt
Leetal Weiss
Morgan, Lewis & Bockius LLP
1111 Pennsylvania, Ave., N.W.
Washington, DC 20004
202-739-3000 (tel)
202-739-3001 (fax)
russell.blau@morganlewis.com
danielle.burt@morganlewis.com
leetal.weiss@morganlewis.com

Counsel for Transferor and Licensees

EXHIBIT A

Pre- and Post-Transaction Ownership Charts

Pre-Closing Ownership Structure

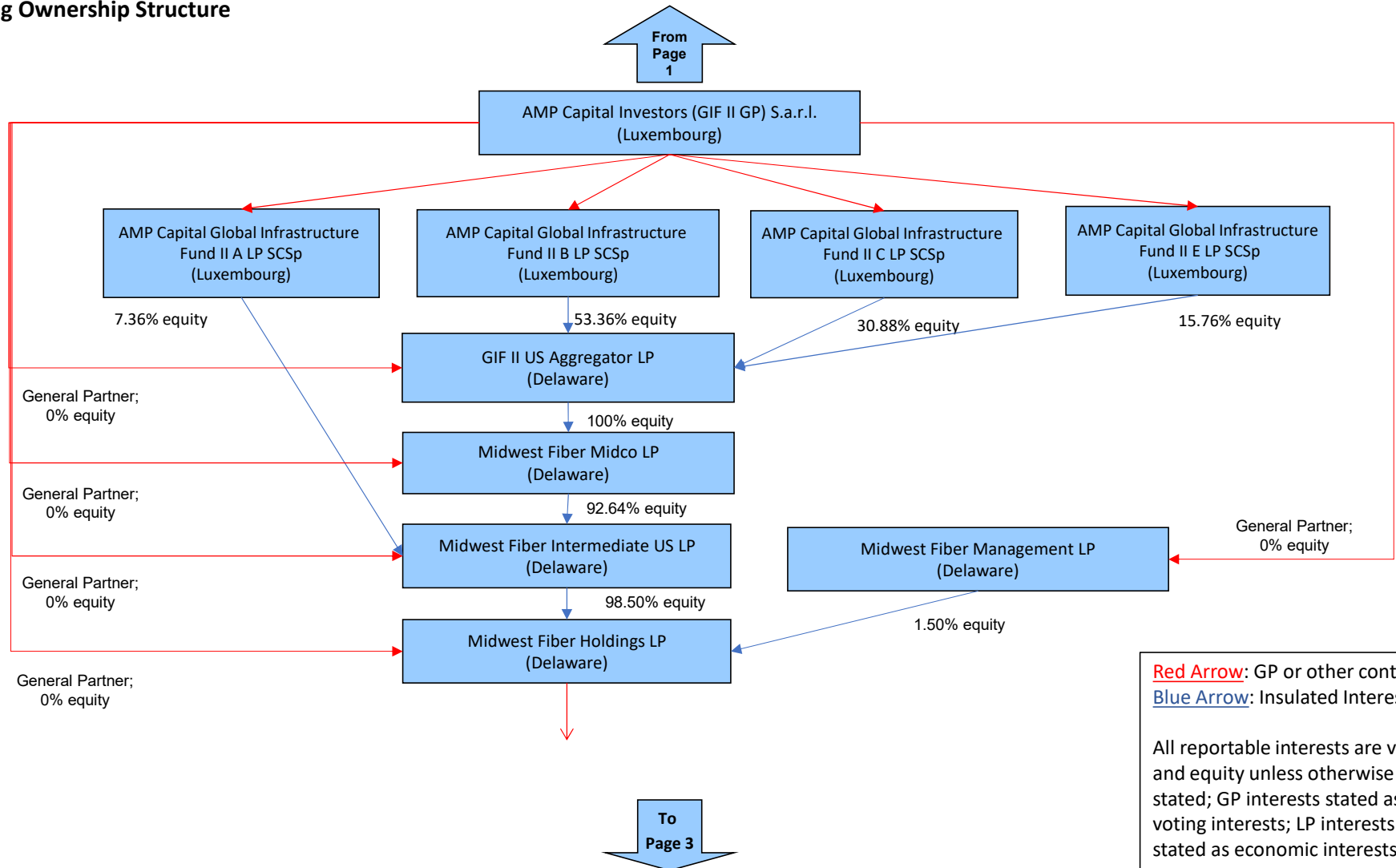


*In February 2022, AMP Capital Holdings Limited changed its name to Collimate Capital Ltd.

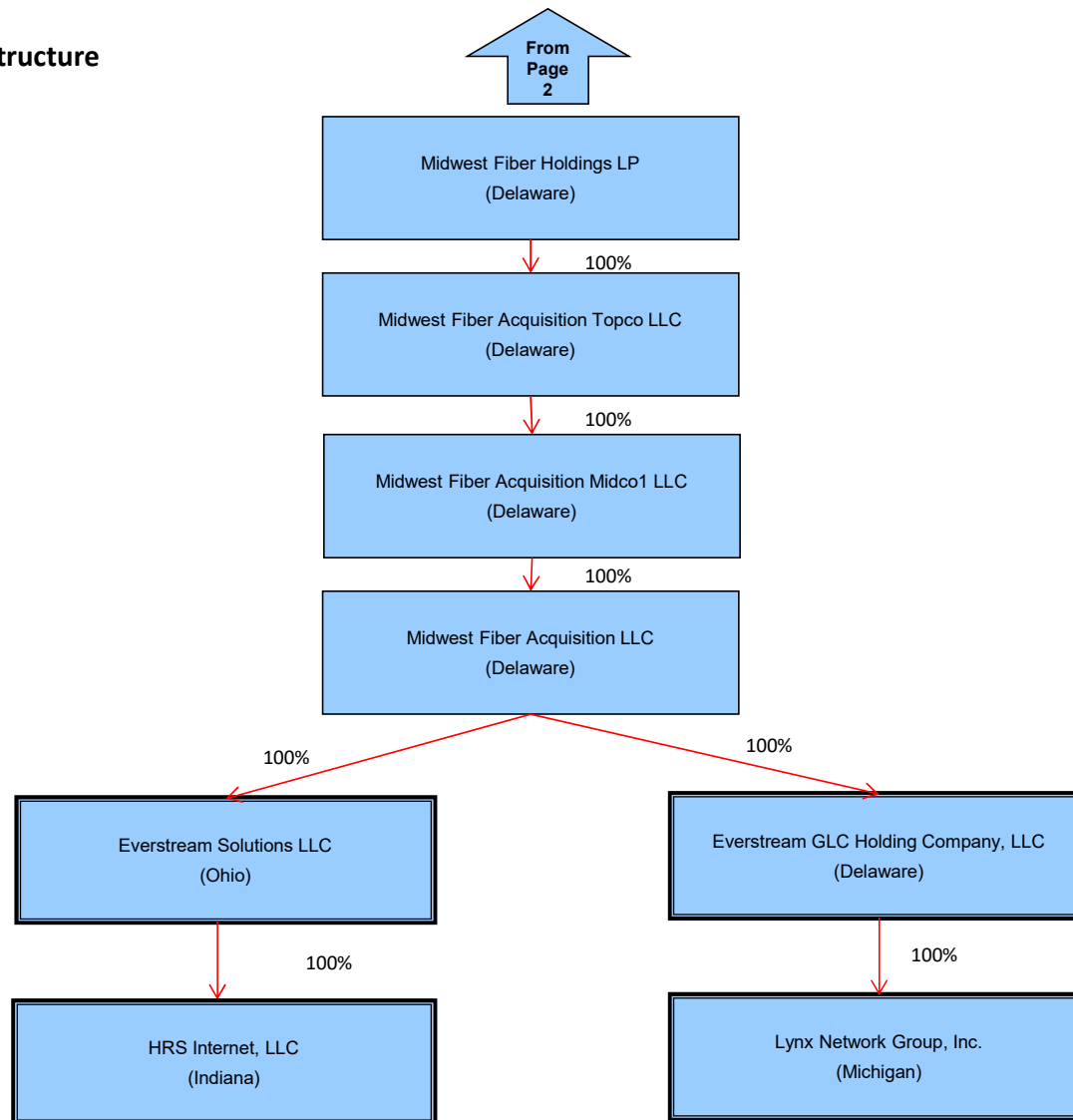
Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting and equity unless otherwise stated; GP interests stated as voting interests; LP interests stated as economic interests

Pre-Closing Ownership Structure



Pre-Closing Ownership Structure

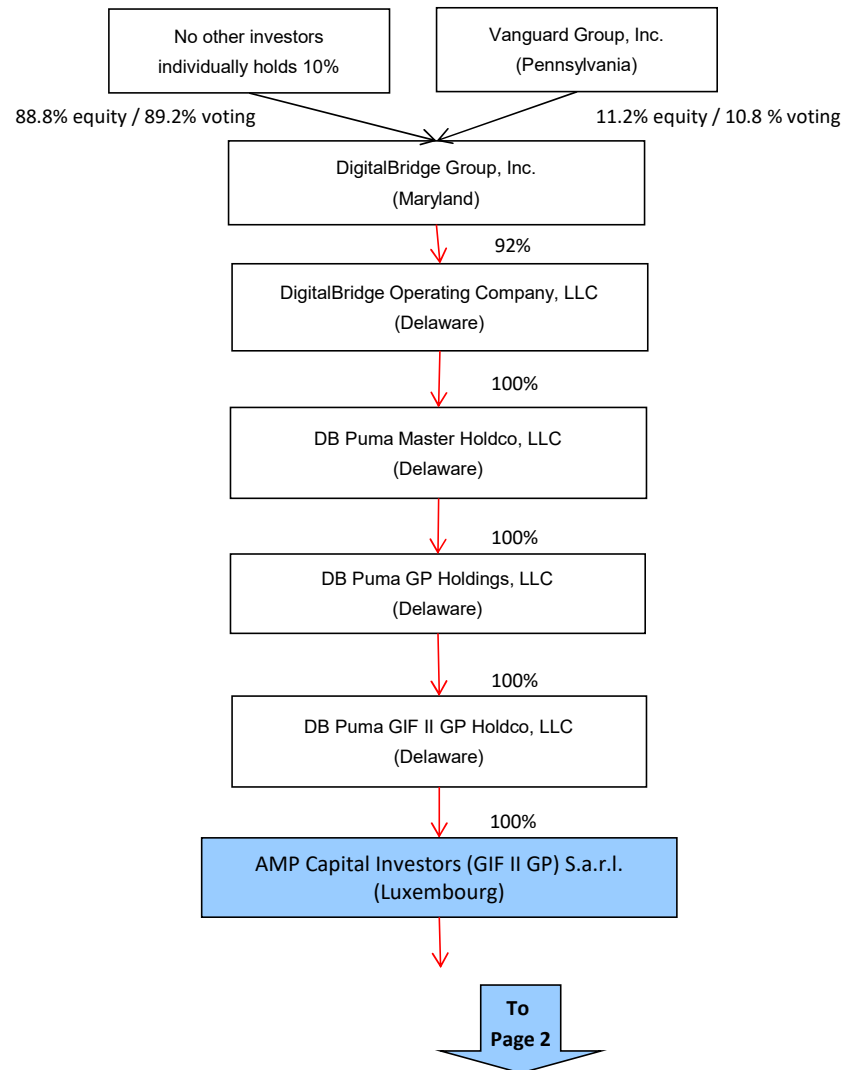


All entities in bolded boxes are
FCC Licenses

Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting
and equity unless otherwise
stated; GP interests stated as
voting interests; LP interests
stated as economic interests

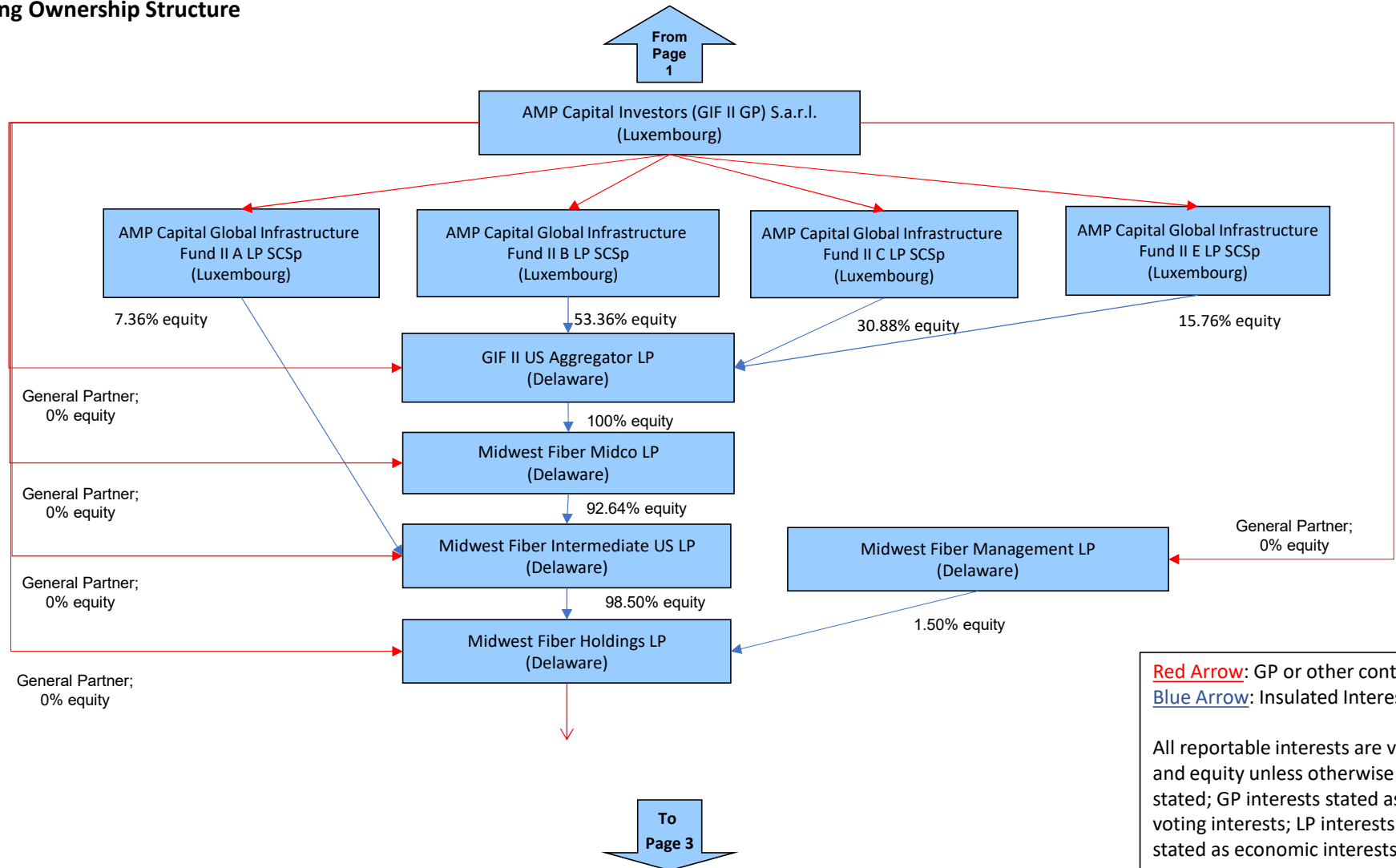
Post-Closing Ownership Structure



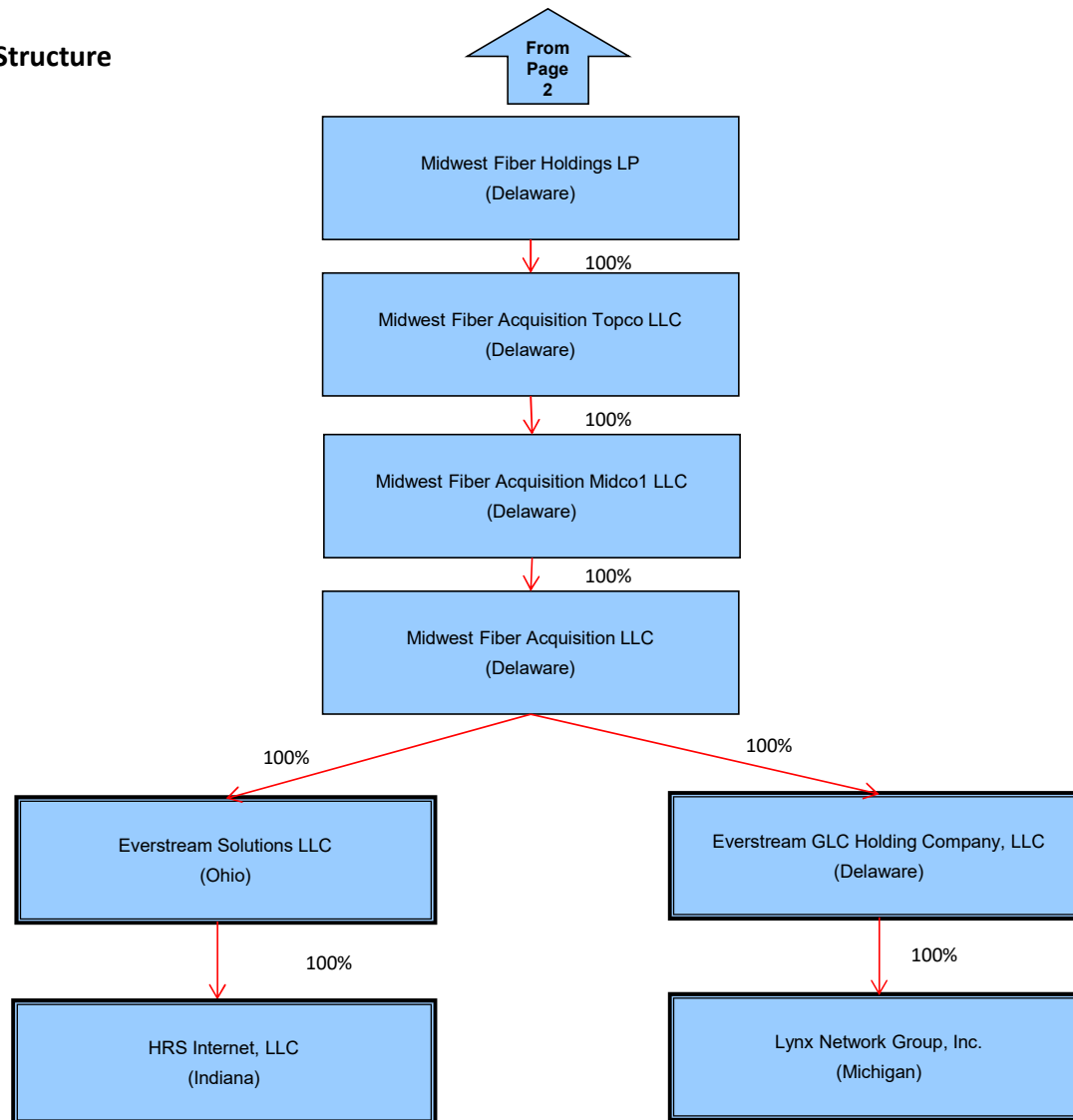
Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting and equity unless otherwise stated; GP interests stated as voting interests; LP interests stated as economic interests

Post-Closing Ownership Structure



Post-Closing Ownership Structure



All entities in bolded boxes are
FCC Licenses

Red Arrow: GP or other control
Blue Arrow: Insulated Interests

All reportable interests are voting
and equity unless otherwise
stated; GP interests stated as
voting interests; LP interests
stated as economic interests

VERIFICATION

I, Michael Bessell, state that I am a director of AMP Capital Investors International Holdings Ltd. (the “Company”); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents thereof and the certifications contained therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25 day of July 2022.



Name: Michael Bessell

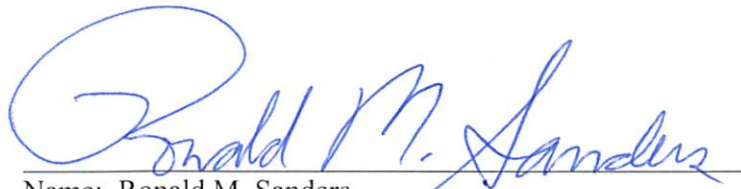
Title: Director

Entity: AMP Capital Investors International Holdings Ltd.

VERIFICATION

I, Ronald M. Sanders, state that I am Executive President, Chief Legal Officer and Secretary of DigitalBridge Group, Inc. (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents thereof and the certifications contained therein are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury that the foregoing is true and correct. Executed this 25 day of July 2022.



Name: Ronald M. Sanders

Title: Executive Vice President, Chief Legal Officer,
Secretary

Entity: DigitalBridge Group, Inc.

PENNSYLVANIA VERIFICATIONS

VERIFICATION

I, Michael Bessell, state that I am a director of AMP Capital Investors International Holdings Ltd. (the “Company”); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to un-sworn falsification to authorities).

Dated: July 25, 2022

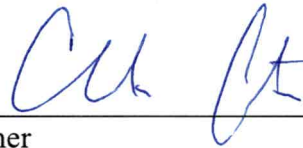


Michael Bessell
Director
AMP Capital Investors International Holdings Ltd.

VERIFICATION

I, Christian Gartner, state that I am the Chief Financial Officer of Everstream Solutions LLC (the “Company”); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to un-sworn falsification to authorities).

Dated: July 21, 2022

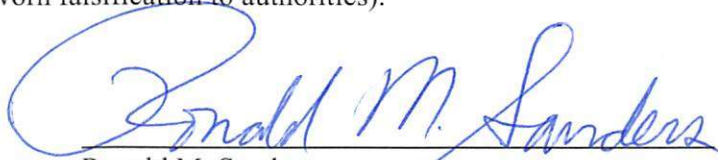


Christian Gartner
Chief Financial Officer
Everstream Solutions LLC

VERIFICATION

I, Ronald M. Sanders state that I am Executive President, Chief Legal Officer and Secretary of DigitalBridge Group, Inc. (the "Company"); that I am authorized to make this Verification on behalf of the Company; that the foregoing filing was prepared under my direction and supervision; and that the contents with respect to the Company are true and correct to the best of my knowledge, information, and belief. I understand that the statements herein are made subject to the penalties of 18 Pa.C.S. § 4904 (relating to un-sworn falsification to authorities).

Dated: July 25, 2022



Ronald M. Sanders
Executive Vice President, Chief Legal Officer,
Secretary
DigitalBridge Group, Inc.

CERTIFICATE OF SERVICE

I, Catherine G. Vasudevan, hereby certify that on this 26th day of July, 2022, a copy of the foregoing Application was served by first class, prepaid postage mail delivery upon the following:

Consumer Advocate
Office of Consumer Advocate
555 Walnut Street
Forum Place, 5th Floor
Harrisburg, PA 17101-1923

Small Business Advocate
Office of Small Business Advocate
Commerce Building
300 North Second Street, Suite 1102
Harrisburg, PA 17101

Bureau of Investigation & Enforcement
PO Box 3265
Commonwealth Keystone Building
400 North Street, 2nd Floor West
Harrisburg, PA 17105-3265

/s/ Catherine G. Vasudevan
Catherine G. Vasudevan
PA I.D. No. 210254

CONFIDENTIAL

EXHIBIT TM-4

Redacted

CONFIDENTIAL

EXHIBIT TM-5

Redacted

EXHIBIT TM-6

1228 Euclid Avenue, Suite 250
Cleveland, OH 44115
everstream.net

VIA CERTIFIED U.S. MAIL, RETURN RECEIPT REQUESTED

3 February 2025

T-Mobile
12920 SE 38th St
Bellevue, WA 98006-1350

**Re: Notice of Discontinuation of All Services in Pennsylvania and related markets
("The PA Market")**

Dear Razorsight,

Everstream Solutions LLC ("Everstream") values you as a customer of our communications services. After making substantial investments and improvements in the PA Market and its related markets of New York, New Jersey, Delaware and Maryland, we have determined that we are unable to provide the quality of service required and have made the difficult decision to discontinue all the services we offer in the PA Market. **We intend to decommission this network as soon as June 30, 2025 ("Service Termination Date").** We advise you to take immediate action to replace these services in the PA Market.

You will be required to transition your Everstream services in the PA Market to a new service provider before the Service Termination Date; in such case, you will need to contact a new service provider of your choice to make such arrangements. If you do not make appropriate arrangements with a new service provider prior to the Service Termination Date, you may experience a loss of service

In addition, if you receive voice or underlying data services that support voice calling in the PA Market, you may be unable to make local calls, including 911 emergency calls or any long-distance calls after the Service Termination Date.

A list is included with this letter of your impacted circuit IDs and addresses. We will assist and provide reasonable support for your transition of services.

By making this decision we will be able to invest more in core Everstream markets where we own the underlying fiber assets and thus can better meet your needs to provide connectivity to current and new locations.

Everstream is disappointed that we must exit the PA Market. We understand this is frustrating, but we are committed to working with you to ensure as smooth a transition as possible. If you have questions regarding the discontinuation of your services in the PA Market, please contact Everstream at 844-733-4700.

1228 Euclid Avenue, Suite 250

Cleveland, OH 44115

everstream.net

Sincerely,

Everstream

The Federal Communications Commission will normally authorize this proposed discontinuance of service unless it is shown that customers will be unable to receive service or a reasonable substitute from another carrier or that the public convenience and necessity is adversely affected. If you wish to object, you should file your comments as soon as possible, but no later than 15 days after The Commission releases public notice of the proposed discontinuation.

You may file comments electronically through The FCC's Electronic Comment Filing System using the docket number established in The Commission's public notice for this proceeding, or you may address them to The Federal Communications Commission, Wireline Competition Bureau, Competition Policy Division, Washington, DC 20554, and reference the §63.71 Application of Everstream Solutions LLC. Comments should include specific information about the impact of this proposed discontinuance upon you or your company, including any inability to acquire reasonable substitute service.

APPENDIX D:

LETTER FROM T-MOBILE USA, INC. TO

EVERSTREAM SOLUTIONS, LLC

FEBRUARY 19, 2025

EXHIBIT TM-7

RCVD PUC SEC BUR
JUN 10 2025 PM 10:57

Information to identify the case:

Debtor Everstream Solutions LLC, et al. (see below for list of all Debtors)
NameEIN: 36-4742361United States Bankruptcy Court for the Southern District of Texas (Houston Division)
(State)Date case filed for chapter 11 05/28/2025
MM/DD/YYYY

Lead Case Number: 25-90144 (CML)

Official Form 309F1 (For Corporations or Partnerships)

M-2025-3052793

Notice of Chapter 11 Bankruptcy Case

10/20

For the debtor listed above, a case has been filed under chapter 11 of the Bankruptcy Code. An order for relief has been entered.

This notice has important information about the case for creditors and debtors, including information about the meeting of creditors and deadlines. Read both pages carefully.

The filing of the case imposed an automatic stay against most collection activities. This means that creditors generally may not take action to collect debts from the debtor or the debtor's property. For example, while the stay is in effect, creditors cannot sue, assert a deficiency, repossess property, or otherwise try to collect from the debtor. Creditors cannot demand repayment from the debtor by mail, phone, or otherwise. Creditors who violate the stay can be required to pay actual and punitive damages and attorney's fees.

Confirmation of a chapter 11 plan may result in a discharge of debt. A creditor who wants to have a particular debt excepted from discharge may be required to file a complaint in the bankruptcy clerk's office within the deadline specified in this notice. (See line 11 below for more information.)

To protect your rights, consult an attorney. All documents filed in the case may be inspected at the bankruptcy clerk's office at the address listed below or through PACER (Public Access to Court Electronic Records at <https://pacer.uscourts.gov>).

The staff of the bankruptcy clerk's office cannot give legal advice.

Do not file this notice with any proof of claim or other filing in the case.

1. Debtors' full name(s)
(List of Jointly Administered Debtors)

SEE BELOW CHART

Name of Debtors	Other Names Used by the Debtors in the last 8 years	EIN Number	Case Numbers
Everstream Solutions LLC	1C Network Services LLC	36-4742361	25-90144 (CML)
Midwest Fiber Holdings LP	N/A	82-4893804	25-90140 (CML)
Midwest Fiber Acquisition Topco LLC	N/A	N/A	25-90141 (CML)
Midwest Fiber Acquisition Midco1 LLC	N/A	82-5056061	25-90142 (CML)
Midwest Fiber Acquisition LLC	N/A	N/A	25-90143 (CML)
Everstream Networks LLC	N/A	33-4394542	25-90139 (CML)
Everstream GLC Holding Company LLC	N/A	81-1214493	25-90145 (CML)
American Fiber Comm L.L.C.	N/A	43-1802389	25-90146 (CML)
HRS Internet, LLC	N/A	35-2145042	25-90147 (CML)
Lynx Network Group, Inc.	N/A	02-0696261	25-90150 (CML)
15955 State Street LLC	N/A	80-2602731	25-90148 (CML)
Rocket Fiber LLC	N/A	47-1087722	25-90149 (CML)
Lynx Fiber One, LLC	N/A	80-0737151	25-90151 (CML)
Lynx Fiber Two, LLC	N/A	80-1603416	25-90152 (CML)

2. All other names used in the last 8 years

SEE ABOVE CHART

3. Address

1228 Euclid Avenue, Suite 250, Cleveland OH 44115

4. Debtor's attorney Name and address	WEIL, GOTSHAL & MANGES LLP Gabriel A. Morgan Clifford W. Carlson 700 Louisiana Street, Suite 3700 Houston, Texas 77002 Telephone: (713) 546-5000 Facsimile: (713) 224-9511 Email: gabriel.morgan@weil.com clifford.carlson@weil.com - and - WEIL, GOTSHAL & MANGES LLP Matthew S. Barr Andriana Georgallas Alexander P. Cohen 767 Fifth Avenue New York, New York 10153 Telephone: (212) 310-8000 Facsimile: (212) 310-8007 Email: matt.barr@weil.com andriana.georgallas@weil.com alexander.cohen@weil.com	Debtors' Claims and Noticing Agent (for Court Documents and Case Information Inquiries): Stretto, Inc. Case website: https://cases.stretto.com/everstream Email inquiries: everstreaminquiries@stretto.com Hotline: U.S. toll-free: (855) 761-1230 International: +1 (725) 240-7006 Claim Processing Address Information: A proof of claim form may be obtained at www.uscourts.gov, any bankruptcy clerk's office or on the case website at https://cases.stretto.com/everstream. Completed proofs of claim may be submitted to Stretto, Inc. as the official claims agent for these cases. If by Mail: Everstream Solutions LLC, et al., Claims Processing c/o Stretto 410 Exchange, Suite 100 Irvine, CA 92602
5. Bankruptcy clerk's office Documents in this case may be filed at this address. You may inspect all records filed in this case at this office or online at https://pacer.uscourts.gov	United States Courthouse 515 Rusk Avenue Houston, Texas 77002	Hours: Monday to Friday – 8:00 a.m. to 5:00 p.m. (Prevailing Central Time) Telephone: (713) 250-5500
6. Meeting of creditors The Debtors' representative must attend the meeting to be questioned under oath. Creditors may attend, but are not required to do so.	June 26, 2025 at 2:00 p.m. (Prevailing Central Time) The meeting may be continued or adjourned to a later date. If so, the date will be on the court docket.	Location: Dial: (866) 707-5468 Participant Code: 6166997#
7. Proof of claim deadline	<u>Deadline for filing proof of claim:</u> Not yet set. If a deadline is set, notice will be sent at a later time. A proof of claim is a signed statement describing a creditor's claim. A proof of claim form may be obtained at www.uscourts.gov or any bankruptcy clerk's office. Your claim will be allowed in the amount scheduled unless: ☐ your claim is designated as <i>disputed</i>, <i>contingent</i>, or <i>unliquidated</i>; ☐ you file a proof of claim in a different amount; or ☐ you receive another notice. If your claim is not scheduled or if your claim is designated as <i>disputed</i>, <i>contingent</i>, or <i>unliquidated</i>, you must file a proof of claim or you might not be paid on your claim and you might be unable to vote on a plan. You may file a proof of claim even if your claim is scheduled. You may review the schedules at the bankruptcy clerk's office or online at https://pacer.uscourts.gov. Secured creditors retain rights in their collateral regardless of whether they file a proof of claim. Filing a proof of claim submits a creditor to the jurisdiction of the bankruptcy court, with consequences a lawyer can explain. For example, a secured creditor who files a proof of claim may surrender important nonmonetary rights, including the right to a jury trial.	
8. Exception to discharge deadline The bankruptcy clerk's office must receive a complaint and any required filing fee by the following deadline.	If § 523(c) applies to your claim and you seek to have it excepted from discharge, you must start a judicial proceeding by filing a complaint by the deadline stated below Deadline for filing the complaint: <u>To be determined.</u>	

9. Creditors with a foreign address	If you are a creditor receiving notice mailed to a foreign address, you may file a motion asking the court to extend the deadlines in this notice. Consult an attorney familiar with United States bankruptcy law if you have any questions about your rights in this case.
10. Filing a Chapter 11 bankruptcy case	Chapter 11 allows debtors to reorganize or liquidate according to a plan. A plan is not effective unless the court confirms it. You may receive a copy of the plan and a disclosure statement telling you about the plan, and you may have the opportunity to vote on the plan. You will receive notice of the date of the confirmation hearing, and you may object to confirmation of the plan and attend the confirmation hearing. Unless a trustee is serving, the debtor will remain in possession of the property and may continue to operate its business.
11. Discharge of debts	Confirmation of a chapter 11 plan may result in a discharge of debts, which may include all or part of your debt. See 11 U.S.C. § 1141(d). A discharge means that creditors may never try to collect the debt from the debtor except as provided in the plan. If you want to have a particular debt owed to you excepted from the discharge and § 523(c) applies to your claim, you must start a judicial proceeding by filing a complaint and paying the filing fee in the bankruptcy clerk's office by the deadline.

RCVD PUC SEC BUR
JUN 10 2025 AM10:37

Everstream Solutions LLC, et al.
c/o Stretto
410 Exchange Ste 100
Irvine, CA 92602



0000158

MRF 9297339043



PA Public Utility Commission
400 North Street Keystone Bldg
Harrisburg, PA 17120-0001

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EXHIBIT TM-8

From: [Allensworth, Chad](#)
To: [Burt, Danielle](#); [Lama, Michelle](#); [Whitney Snyder](#); [catherine.vasudevan](#); [Blau, Russell M.](#); [NellieDunderdale@dwt.com](#); [KCHalm@dwt.com](#); [KaseyMcGee@dwt.com](#); [Thomas.Sniscak](#)
Cc: [Haas, Steve](#)
Subject: RE: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)
Date: Thursday, July 3, 2025 11:07:08 AM
Attachments: [image002.png](#)
[image003.png](#)
[image004.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)

Good morning and thank you for getting back to us. A prehearing conference will be scheduled for August 7, 2025 at 10 a.m. An official notice providing the dial-in information will be forthcoming. As previously indicated, the parties are expected to be prepared to discuss: (1) status of settlement negotiations, (2) status of Everstream's bankruptcy filing, (3) the litigation schedule and (4) any other case management concerns. In particular, we will be interested in the status of the bankruptcy and whether we should be establishing a litigation schedule.



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Chad L. Allensworth
Administrative Law Judge
Office of Administrative Law Judge
400 North Street
Harrisburg, PA 17120
PH: 717-787-1399
FAX: 717.213.6812
Email: callenswor@pa.gov
Consumer Hotline: 1.800.692.7380

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From: Burt, Danielle <danielle.burt@morganlewis.com>
Sent: Thursday, July 3, 2025 9:18 AM
To: Lama, Michelle <michelle.lama@t-mobile.com>; Allensworth, Chad <callenswor@pa.gov>; Whitney Snyder <wesnyder@hmslegal.com>; catherine.vasudevan <catherine.vasudevan@morganlewis.com>; Blau, Russell M. <russell.blau@morganlewis.com>; NellieDunderdale@dwt.com; KCHalm@dwt.com; KaseyMcGee@dwt.com; tjsniscak@hmslegal.com
Cc: Haas, Steve <sthaas@pa.gov>
Subject: RE: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)

Dear Judges Allensworth and Haas:

The parties are available on Monday, July 28 for a prehearing conference. We respectfully ask for the

prehearing conference to be scheduled on July 28 should it not be possible to set the prehearing conference for August 7 or 8 as requested in yesterday's email. Thank you.

Best Regards, Danielle

Danielle Burt

Pronouns: She/Her/Hers

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, NW | Washington, DC 20004-2541

Direct: +1.202.373.6039 | Main: +1.202.739.3000 | Fax: +1.202.739.3001

danielle.burt@morganlewis.com | www.morganlewis.com



From: Lama, Michelle <michelle.lama@t-mobile.com>

Sent: Wednesday, July 2, 2025 8:23 AM

To: Burt, Danielle <danielle.burt@morganlewis.com>; Allensworth, Chad <callenswor@pa.gov>; Whitney Snyder <wesnyder@hmslegal.com>; Vasudevan, Catherine G. <catherine.vasudevan@morganlewis.com>; Blau, Russell M. <russell.blau@morganlewis.com>; NellieDunderdale@dwt.com; KCHalm@dwt.com; KaseyMcGee@dwt.com; tjsniscak@hmslegal.com

Cc: Haas, Steve <sthaas@pa.gov>

Subject: RE: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)

[EXTERNAL EMAIL]

T-Mobile does not object to scheduling a prehearing conference on August 7 or 8.

Michelle Lama

T Mobile

Principal Corporate Counsel, State Government Affairs

Co-Chair, T-Mobile Pro Bono Committee

703-201-8378

michelle.lama@t-mobile.com

From: Burt, Danielle <danielle.burt@morganlewis.com>

Sent: Wednesday, July 2, 2025 7:53 AM

To: Allensworth, Chad <callenswor@pa.gov>; Whitney Snyder <wesnyder@hmslegal.com>; Vasudevan, Catherine G. <catherine.vasudevan@morganlewis.com>; Blau, Russell M. <russell.blau@morganlewis.com>; NellieDunderdale@dwt.com; KCHalm@dwt.com; KaseyMcGee@dwt.com; Lama, Michelle <michelle.lama@t-mobile.com>; tjsniscak@hmslegal.com

Cc: Haas, Steve <sthaas@pa.gov>

Subject: RE: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)

[External]

Dear Judges Allensworth and Haas:

Everstream Solutions LLC (Everstream) respectfully asks if it is possible to set the prehearing conference for August 7 or 8. This request is based on the bankruptcy court having scheduled a sale order confirmation hearing for Friday, August 1. The docket is available here:

<https://cases.stretto.com/everstream/case-date-list/>. It is possible that a bidder may participate in the bankruptcy court auction process to acquire Everstream's Pennsylvania assets, which would directly impact the status of the discontinuance application pending before this Commission, or to acquire other assets with an agreement to participate in the winddown of Pennsylvania services. Everstream expects to have a more complete understanding on the status of its Pennsylvania business after the August 1 sale order confirmation hearing.

Your attention to this request to hold the prehearing conference for August 7 or 8 is most appreciated. We have shared this request with the other parties and understand that Zito Media does not object. In the meantime, we are conferring with counsel for the other parties to respond by the July 3, noon ET deadline to provide available dates in the last two weeks of July.

Best Regards, Danielle

Danielle Burt

Pronouns: She/Her/Hers

Morgan, Lewis & Bockius LLP

1111 Pennsylvania Avenue, NW | Washington, DC 20004-2541

Direct: +1.202.373.6039 | Main: +1.202.739.3000 | Fax: +1.202.739.3001

danielle.burt@morganlewis.com | www.morganlewis.com



From: Allensworth, Chad <callenswor@pa.gov>

Sent: Tuesday, July 1, 2025 9:20 AM

To: Whitney Snyder <wesnyder@hmslegal.com>; Vasudevan, Catherine G.

<catherine.vasudevan@morganlewis.com>; Blau, Russell M. <russell.blau@morganlewis.com>; Burt,

Danielle <danielle.burt@morganlewis.com>; NellieDunderdale@dwt.com; KCHalm@dwt.com;

KaseyMcGee@dwt.com; michelle.lama@t-mobile.com; tjsniscak@hmslegal.com

Cc: Haas, Steve <sthaas@pa.gov>

Subject: RE: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)

[EXTERNAL EMAIL]

Good morning. Neither Judge Haas nor I have received a response providing available dates for the prehearing conference. Please provide the requested information by noon on Thursday, July 3, 2025. If we do not hear anything, we will schedule a prehearing conference based solely on our availability. Thank you.



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Chad L. Allensworth
Administrative Law Judge
Office of Administrative Law Judge
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FAX: 717.213.6812
Email: callenswor@pa.gov
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From: Allensworth, Chad

Sent: Tuesday, June 17, 2025 9:54 AM

To: Whitney Snyder <WESnyder@hmslegal.com>; catherine.vasudevan <catherine.vasudevan@morganlewis.com>; russell.blau@morganlewis.com; danielle.burt@morganlewis.com; NellieDunderdale@dwt.com; KCHalm@dwt.com; KaseyMcGee@dwt.com; michelle.lama@t-mobile.com; tjsniscak@hmslegal.com

Cc: Haas, Steve <sthaas@pa.gov>

Subject: RE: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)

Good morning. Judge Haas and I have reviewed the request to delay the prehearing conference as well as the oppositions to that request and we have decided to proceed with scheduling a prehearing conference in this matter. We would like to schedule the prehearing conference for some time around the last two weeks of July (i.e., between July 21st and August 1st). The parties are directed to confer with each other and provide two or three mutually agreeable dates when we can schedule the prehearing conference during that timeframe. The parties are expected to be prepared to discuss the following issues at the prehearing conference: (1) status of settlement negotiations, (2) status of Everstream's bankruptcy filing, (3) the litigation schedule and (4) any other case management concerns. If the parties have additional topics that they believe need to be addressed at the prehearing conference, they shall notify everyone via response to this email.

Finally, the parties are directed to confer with each other prior to the prehearing conference in an attempt to arrive at a mutually agreeable litigation schedule. This agreed upon litigation schedule shall be served by email to Judge Haas and I no later than two business days before the scheduled prehearing conference.

You may email Judge Haas and I with any questions so long as all parties are included on the communication.



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Chad L. Allensworth
Administrative Law Judge
Office of Administrative Law Judge
400 North Street
Harrisburg, PA 17120
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Email: callenswor@pa.gov
Consumer Hotline: 1.800.692.7380

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From: Whitney Snyder <WESnyder@hmslegal.com>
Sent: Monday, June 16, 2025 12:56 PM
To: Allensworth, Chad <callenswor@pa.gov>; Haas, Steve <sthaas@pa.gov>
Cc: catherine.vasudevan <catherine.vasudevan@morganlewis.com>;
russell.blau@morganlewis.com; danielle.burt@morganlewis.com; NellieDunderdale@dwt.com;
KCHalm@dwt.com; KaseyMcGee@dwt.com; michelle.lama@t-mobile.com; tjsniscak@hmslegal.com
Subject: [External] RE: No. A-2025-3053757 (Everstream Solutions, LLC)

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Dear Judges Allensworth and Haas:

T-Mobile supports Zito Media's request to hold a pre-hearing conference in this matter.

Respectfully,

Whitney E. Snyder | Partner

HMS Legal LLP

501 Corporate Circle | Harrisburg, PA 17110

Phone: 717.236.1300 | Direct: 717.703.0807 | Fax: 717.236.4841

<http://www.hmslegal.com/> | Email: wesnyder@hmslegal.com

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From: Whitney Snyder
Sent: Thursday, June 12, 2025 4:53 PM
To: callenswor@pa.gov; sthaas@pa.gov
Cc: Vasudevan, Catherine G. <catherine.vasudevan@morganlewis.com>;
russell.blau@morganlewis.com; danielle.burt@morganlewis.com; NellieDunderdale@dwt.com;
KCHalm@dwt.com; KaseyMcGee@dwt.com; michelle.lama@t-mobile.com; Thomas Sniscak
<tjsniscak@hmslegal.com>
Subject: No. A-2025-3053757 (Everstream Solutions, LLC)

Dear Judges Allensworth and Haas:

T-Mobile filed a Protest in this matter on April 10, 2025, shown at the Commission's docket here <https://www.puc.pa.gov/pcdocs/1874216.pdf>. The service email is attached.

Please include the following counsel on behalf of T-Mobile on correspondence and service in this matter.

Michelle Painter Lama

Michelle.Lama@t-mobile.com

Whitney E. Snyder

Thomas J. Sniscak

wesnyder@hmslegal.com

tjsniscak@hmslegal.com

Respectfully,

Whitney E. Snyder | Partner

HMS Legal LLP

501 Corporate Circle | Harrisburg, PA 17110

Phone: 717.236.1300 | Direct: 717.703.0807 | Fax: 717.236.4841

<http://www.hmslegal.com/> | Email: wesnyder@hmslegal.com

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EXHIBIT TM-9

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:

EVERSTREAM SOLUTIONS LLC, *et al.*,

Debtors.¹

§
§
§
§
§
§
§

Chapter 11

Case No. 25-90144 (CML)

(Jointly Administered)

**MOTION OF DEBTORS FOR ORDER (I) APPROVING
(A) BIDDING PROCEDURES, (B) DESIGNATION OF STALKING HORSE
BIDDER AND STALKING HORSE BID PROTECTIONS, (C) FORM AND
MANNER OF NOTICE OF SALE, AUCTION, AND SALE HEARING, AND
(D) ASSUMPTION AND ASSIGNMENT PROCEDURES, (II) SCHEDULING
AUCTION AND SALE HEARING, AND (III) GRANTING RELATED RELIEF**

IF YOU OBJECT TO THE RELIEF REQUESTED, YOU MUST RESPOND IN WRITING. UNLESS OTHERWISE DIRECTED BY THE COURT, YOU MUST FILE YOUR RESPONSE ELECTRONICALLY AT [HTTPS://ECF.TXSB.USCOURTS.GOV/](https://ecf.txsb.uscourts.gov/) WITHIN 21 DAYS FROM THE DATE THIS MOTION WAS FILED. IF YOU DO NOT HAVE ELECTRONIC FILING PRIVILEGES, YOU MUST FILE A WRITTEN OBJECTION THAT IS ACTUALLY RECEIVED BY THE CLERK WITHIN 21 DAYS FROM THE DATE THIS MOTION WAS FILED. OTHERWISE, THE COURT MAY TREAT THE PLEADING AS UNOPPOSED AND GRANT THE RELIEF REQUESTED.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors' mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

Everstream Solutions LLC and its debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases, respectfully represent as follows:²

Relief Requested

1. By this motion (the “**Motion**”), pursuant to sections 105, 363, and 365 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2002-1 and 9013-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Local Rules**”), the Debtors seek entry of an order, substantially in the form attached hereto as **Exhibit A** (the “**Bidding Procedures Order**”), granting the following relief on a final basis:

- i. authorizing and approving the Bidding Procedures substantially in the form attached to the Bidding Procedures Order as **Exhibit 1**, in connection with the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business and the MO Divested Business (each, as defined in the Stalking Horse Agreement) (the “**Assets**”);
- ii. authorizing the Debtors to designate Bluebird MidWest, LLC, an indirect subsidiary of Bluebird Network, LLC (“**Bluebird**”), a regional internet and data service provider and data center operator, as the stalking horse bidder (the “**Stalking Horse Bidder**”);
- iii. approving the Stalking Horse Bid Protections (as defined herein) proposed to be granted in accordance with the terms and conditions of the Bidding Procedures and the Stalking Horse Agreement;
- iv. authorizing and scheduling an auction (the “**Auction**”) and scheduling a hearing (the “**Sale Hearing**”) with respect to the approval of a proposed sale transaction to the Successful Bidder or the Back-Up Bidder (each, as

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein), as applicable.

defined in the Bidding Procedures) pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”);³

- v. authorizing and approving the form and manner of notice of the (a) Debtors’ entry into that certain *Asset Purchase Agreement*, dated as of May 22, 2025 (together with the exhibits thereto, as may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “**Stalking Horse Agreement**”), attached to the Bidding Procedures Order as **Exhibit 2**, which provides for the sale of substantially all of the Assets other than those related to the PA Business (as defined in the Stalking Horse Agreement) (the “**Stalking Horse Assets**”) to the Stalking Horse Bidder (the “**Stalking Horse Bid**”), (b) Auction, and (c) Sale Hearing, substantially in the form attached to the Bidding Procedures Order as **Exhibit 3** (the “**Sale Notice**”);
- vi. approving the procedures set forth in the Bidding Procedures Order (the “**Assumption and Assignment Procedures**”) for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”);
- vii. authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (as defined herein) (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the Successful Bidder and of the Debtors’ calculation of the Cure Costs, substantially in the form attached hereto as **Exhibit 4** (the “**Cure Notice**”);
- viii. authorizing and approving the form of notice substantially attached in the form attached to the Bidding Procedures Order as **Exhibit 5** (the “**Post-Auction Notice**”); and
- ix. granting related relief.

2. In support of the Motion, the Debtors submit the declaration of James Henry, a Senior Managing Director at Bank Street Group LLC (“**Bank Street**”), filed contemporaneously herewith (the “**Henry Declaration**”), which is incorporated by reference herein.

³ On or before July 21, 2025, subject to adjustment depending on when the Sale Hearing and related deadlines are set, the Debtors will file with this Court and serve by e-mail, mail, facsimile, or overnight delivery on the Sale Notice Parties (as defined herein) a proposed form of order authorizing and approving, among other things, the Sale Transaction in which all or some of the Assets of the Debtors or the Debtors’ business will be sold to the applicable Successful Bidder or the Back-Up Bidder (the “**Sale Order**”).

Preliminary Statement

3. The Debtors are pleased to report that, after considerable deliberation, extensive negotiations, and multiple rounds of revisions of terms, on May 22, 2025, the Debtors entered into the Stalking Horse Agreement with the Stalking Horse Bidder. The Stalking Horse Agreement is the result of the Debtors' extensive Prepetition Sale Process (as defined herein) and contemplates a value-maximizing sale of the Stalking Horse Assets for an aggregate purchase price of \$285 million in cash (subject to purchase price adjustments) plus certain assumed liabilities. The Stalking Horse Agreement is attached to the Bidding Procedures Order as **Exhibit 2** and is subject to higher or otherwise better offers as described herein.

4. As set forth in greater detail in the Henry Declaration, the Debtors, Bank Street, the Debtors' proposed M&A advisor, and PJT Partners LP, the Debtors' proposed investment banker, conducted an extensive and robust prepetition marketing, solicitation, and sale process (the "**Prepetition Sale Process**"). With respect to the Stalking Horse Assets, the Debtors and Bank Street conducted the Prepetition Sale Process for over eight months, commencing in September 2024 and running through the commencement of these chapter 11 cases. With the prepetition marketing in mind, and in an effort to maximize value for all stakeholders, the Debtors and their advisors have developed postpetition marketing, bidding, and auction procedures (the "**Bidding Procedures**") for the orderly marketing and sale of the Assets. The Bidding Procedures are designed to promote a competitive and robust bidding process and are intended to generate the greatest level of interest in the Debtors' business—higher or otherwise better than the Stalking Horse Agreement—including for the Debtors' assets related to the PA Business.

5. The Bidding Procedures provide the Debtors with flexibility to solicit proposals, negotiate transactions, hold an auction, and proceed to consummate a Sale Transaction

of the Assets, all while protecting the due process rights of all interested parties and ensuring that there is a full and fair opportunity to review and consider proposed transactions. The Debtors propose to establish the following key dates and deadlines for the sale process:

Key Event	Proposed Date or Deadline⁴
Milestone for entry of Bidding Procedures Order	June 27, 2025
Deadline to submit Bids	July 14, 2025 at 4:00 p.m. (prevailing Central Time)
Qualified Bid Deadline: Debtors to notify bidders of status as Qualified Bidders and to file and publish (on Claims Agent Website) notice of Qualified Bids	July 16, 2025 at 4:00 p.m. (prevailing Central Time)
Auction to be held if the Debtors receive more than one Qualified Bid, to be conducted at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to Qualified Bidders	July 17, 2025 at 9:00 a.m. (prevailing Central Time)
Deadline to file notice and identities of Successful Bid(s) and Back-Up Bid	July 21, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file proposed form of Sale Order	July 21, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to Sale Transaction	July 25, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to cure costs and/or adequate assurance of future performance	July 25, 2025 at 4:00 p.m. (prevailing Central Time)
Proposed Sale Hearing	August 1, 2025

6. Given the exigencies of the Debtors' business operations and financial condition, it is vital that the Debtors quickly execute the going-concern sale of their business and then exit chapter 11 in an efficient manner. Accordingly, the Debtors request approval of a comprehensive set of procedures that will facilitate a potential Sale Transaction in a timely and efficient manner while maximizing the value of the Assets for the benefit of the Debtors' estates.

⁴ All proposed dates and deadlines listed herein are subject to the Court's availability.

Background

7. On the date hereof (the “**Petition Date**”), the Debtors each commenced with the Court a voluntary case under chapter 11 of the Bankruptcy Code. The Debtors are authorized to continue to operate their business and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner, or statutory committee has been appointed in these chapter 11 cases.

8. The Debtors’ chapter 11 cases are being jointly administered pursuant to Bankruptcy Rule 1015(b) and Bankruptcy Local Rule 1015-1.

9. The Debtors, a leading U.S. builder, owner, and operator of business-only fiber optic networks, commenced these chapter 11 cases to continue their prepetition marketing efforts and ultimately seek consummation of one or more value-maximizing sale transactions for the benefit of all stakeholders. Prior to the Petition Date, the Debtors began a robust marketing and sale process that resulted in the Stalking Horse Agreement with the Stalking Horse Bidder, which contemplates the sale of the Stalking Horse Assets (*i.e.*, substantially all the Assets other than those related to the PA Business). During these chapter 11 cases, the Debtors plan to continue marketing the Stalking Horse Assets for potential transactions that, if representing higher or otherwise better value for the Debtors’ stakeholders than the Stalking Horse Bid, will be pursued in lieu thereof. Contemporaneously herewith, the Debtors are seeking approval of debtor-in-possession financing in the aggregate principal amount of up to \$186 million, including new money commitments of \$55 million, to support the Debtors’ operations throughout the pendency of these chapter 11 cases.

10. Additional information regarding the Debtors’ business and capital structure and the circumstances leading to the commencement of these chapter 11 cases is set forth

in the *Declaration of Justin Schmaltz in Support of Debtors' Chapter 11 Petitions and First Day Relief* (the “**First Day Declaration**”), filed contemporaneously herewith and incorporated herein by reference.

Jurisdiction and Venue

11. The Court has jurisdiction and authority to consider this matter pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before the Court pursuant to 28 U.S.C. §§ 1408 and 1409.

Prepetition Sale Process

12. As described in the Henry Declaration, in July 2024, the Debtors engaged Bank Street to serve as their M&A advisor to assist with selling all or substantially all of the Debtors' assets, excluding the MO Divested Business, the IL Divested Business, and the PA Business (as defined in the Stalking Horse Agreement). During the course of the prior year, and in some respects in parallel, the Debtors and PJT engaged in an extensive marketing and sale process for the MO Divested Business, the IL Divested Business, and the PA Business, which ultimately resulted in finding buyers for the MO Divested Business and the IL Divested Business, but not the PA Business.

13. After the Debtors retained Bank Street to assist in the sale of the Debtors' remaining assets, Bank Street, on behalf of the Debtors, contacted 86 potential investors, including 23 strategic and 63 financial buyers. During this process, 55 interested investors were provided with diligence. In addition, many of the interested parties submitted due diligence questions lists to and scheduled conference calls with Bank Street.

14. After several months of extensive negotiations, the Debtors received five indications of interest from investors seeking to acquire the Debtors' assets, but ultimately received

only two second-round bids. In December 2024, after an additional round of bids, the Debtors ultimately received three proposals: (i) an all-cash bid from a strategic buyer that was involved in the first and second round of the process; (ii) a bid comprised of cash and deferred consideration from a strategic buyer that was involved in the first and second round of the process; and (iii) an all-cash consideration bid from a strategic buyer that did not participate in either round of bidding. The Debtors determined to continue discussions with the two bidders that stayed involved throughout the bidding process. After an additional round of diligence and considerable deliberation, the Debtors selected the bid from the Stalking Horse Bidder and signed the Stalking Horse Agreement with the opportunity to pursue other higher or otherwise better offers.

Need for Timely Sale Process

15. The Debtors believe that the time periods set forth in the Bidding Procedures are reasonable and will provide parties with sufficient time and information to submit a bid for the Debtors' business. In formulating the Bidding Procedures and time periods set forth therein, the Debtors balanced the need to provide adequate and appropriate notice to parties in interest and potential bidders with the need to run the sale process quickly and efficiently to maximize value. To that end, the Bidding Procedures are designed to encourage all prospective bidders to submit bids at the outset of these chapter 11 cases to provide the highest or otherwise best available recoveries to the Debtors' stakeholders. In addition to the Stalking Horse Bidder, at least two strategic parties have indicated interest in participating in the postpetition sale and bidding process.

16. The Debtors' formulation of the Bidding Procedures was also informed by the Prepetition Sale Process. Potential Bidders (as defined in the Bidding Procedures) have had, and will, in accordance with the Bidding Procedures, continue to have access to comprehensive

information prepared by the Debtors and their advisors that is compiled in an electronic data room (the “**Data Room**”). In light of the foregoing, the Debtors have determined that pursuing the Bidding Procedures is in the best interests of the Debtors’ estates, will establish whether and to what extent a market exists for the Debtors’ business, and provides interested parties with sufficient opportunity to participate.

Bidding Procedures

A. Overview

17. The Bidding Procedures are designed to promote a competitive and robust sale process for the Debtors’ business. If approved, the Bidding Procedures will allow the Debtors to solicit and identify bids from Potential Bidders that constitute the highest or otherwise best offers for the Debtors’ business on a timeline that is consistent with the milestones in the debtor-in-possession financing and Stalking Horse Agreement. The Debtors believe that the time periods set forth in the Bidding Procedures are reasonable and appropriate. Under the proposed timeline, there will be approximately 47 days between the filing of this Motion and the Bid Deadline (as defined herein), and 58 days between the filing of this Motion and the Sale Objection Deadline (each, as defined in the Bidding Procedures). Potential Bidders who have not previously conducted diligence on the Debtors’ business will have immediate access, subject to the execution of an appropriate confidentiality agreement, to a substantial body of information regarding the Assets, including information gathered based upon specific due diligence requests of various petition bidders who participated in the Prepetition Sale Process.

18. The Bidding Procedures are attached to the Bidding Procedures Order and therefore are not restated herein in their entirety. The Debtors will have the ability to alter the Bidding Procedures based upon the exigencies of a given situation if the Debtors determine, in their business judgment, in a manner consistent with their fiduciary duties and applicable law, and

in consultation with certain parties as provided in the Bidding Procedures. Certain of the key terms of the Bidding Procedures are highlighted in the chart below.⁵

MATERIAL TERMS OF BIDDING PROCEDURES	
Provisions Governing Qualification of Bidders and Qualified Bids	A. Bid Deadline – the Bid Deadline is July 14 2025, at 4:00 p.m. (prevailing Central Time); <u>provided</u> that the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders (each, as defined in the Bidding Procedures), may extend the Bid Deadline in their discretion without further order of the Bankruptcy Court subject to providing prior notice to all Potential Bidders, the Stalking Horse Bidder,⁶ and the Consultation Parties.⁷ The submission of a Bid by the Bid Deadline shall constitute a binding and irrevocable offer to acquire the Assets as specified in such Bid. Any party that does not submit a Bid by the Bid Deadline will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction. B. Potential Bidder Requirements – To access the data room of the Debtors’ material documents, a Potential Bidder must submit: 1. <u>Confidentiality Agreement</u>. An executed confidentiality agreement in form and substance satisfactory to the Debtors. 2. <u>Financial Wherewithal</u>. Sufficient information, as reasonably determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, to allow the Debtors to determine that the interested party (i) has the financial wherewithal to consummate the applicable Sale Transaction and (ii) intends to access the Data Room for a purpose consistent with the Bidding Procedures. C. Qualified Bid Requirements – To constitute a Qualified Bid, a Bid must include, at a minimum, the following: 1. <u>Identity of Bidder</u>. A Qualified Bid must fully disclose, by their legal names, the identity of the Potential Bidder and each entity that will be participating in its Bid, and the complete terms of any such participation. 2. <u>Acquired Assets</u>. A Qualified Bid must clearly identify in writing the particular Assets the Potential Bidder seeks to acquire from the Debtors. For the avoidance of doubt, a Qualified Bid may include a bid for less than all or substantially all of

⁵ To the extent that there is any inconsistency between the terms of the Bidding Procedures and the summary of such terms in this Motion, the terms of the Bidding Procedures shall control.

⁶ For the avoidance of doubt, the Debtors’ ability to extend deadlines as provided herein shall not alter the Stalking Horse Bidder’s rights under the Stalking Horse Agreement.

⁷ “**Consultation Parties**” means (i) Paul Hastings LLP and FTI Consulting, as advisors to the OpCo Agent, the OpCo Lenders, the DIP Agent, the DIP Lenders, and the HoldCo Lenders and (ii) the legal advisor to the Official Committee of Unsecured Creditors, if any. In the event that any Consultation Party or affiliate of the foregoing submits a Qualified Bid, such party shall no longer be a Consultation Party until such time as such party formally withdraws its Bid.

the Assets.⁸ To the extent a Bid includes some or all of the PA Business as part of the Assets to be purchased, the Bid must clearly state the portion of the Purchase Price (as defined herein) allocated to such assets.

3. Purchase Price. A Qualified Bid must specify the price (the “**Purchase Price**”) proposed to be paid for the Assets, and must (a) propose a Purchase Price in cash or other aggregate consideration equal to or greater in value than the purchase price of the Stalking Horse Bid, taking into account Assumed Liabilities designated by the Potential Bidder, among other things, *plus* the Termination Payment (as defined herein), *plus* the amount of the Minimum Overbid Amount (as defined herein), and (b) include an amount in cash sufficient to satisfy the Termination Payment of up to \$11,400,000.
4. Assumed Liabilities. A Qualified Bid must clearly identify the particular liabilities, if any, the Potential Bidder seeks to assume.
5. Form of Consideration. Each Qualified Bid must (a) indicate (x) whether it is an all-cash offer (including confirmation that the cash component of the Bid is based in U.S. Dollars) or consists of certain non-cash components, such as a credit bid and/or the assumption of liabilities, and (y) the allocation of the Purchase Price among the Assets to be acquired and the liabilities to be assumed, if applicable; and (b) provide sufficient cash consideration specifically designated for the Termination Payment payable to the Stalking Horse Bidder under the terms of the Stalking Horse Agreement.
6. Credit Bid. Persons or entities holding a perfected security interest in the Assets may, pursuant to section 363(k) of the Bankruptcy Code, seek to submit a “credit bid” on such Assets, to the extent permitted by applicable law, any Bankruptcy Court orders, and the documentation governing the Debtors’ prepetition or postpetition secured credit facilities.
 - a. Direction Letter. To the extent applicable, a credit bid must include a copy of the direction by the applicable lenders to the applicable agent to authorize the submission of such credit bid.
 - b. Cash Requirements. A credit bid must include a commitment to provide cash consideration sufficient to pay in full all costs associated with winding down the Debtors’ chapter 11 cases (including the Termination Payment payable to the Stalking Horse Bidder under the terms of the Stalking Horse Agreement).
7. Joint Bids. The Debtors, in consultation with the Consultation Parties, will be authorized to approve joint Bids, including joint credit bids, in their reasonable discretion on a case-by-case basis.
8. Deposit. A Qualified Bid must be accompanied by a good faith deposit in the form of cash in an amount equal to 10% of the Purchase Price (a “**Deposit**”). A deposit must be deposited prior to the Bid Deadline with an escrow agent selected by the Debtors (the “**Escrow Agent**”) pursuant to an escrow agreement to be provided by the Debtors.
 - a. A Deposit is not required for the credit bid portion of Qualified Bid.
 - b. To the extent a Qualified Bidder increases the Purchase Price before, during, or after the Auction, such Qualified Bidder shall promptly, and in no event more than one business day thereafter, adjust its Deposit so that it equals 10% of the increased Purchase Price.

	c. The Successful Bidder's Deposit (if any) shall be applied against the portion of the Purchase Price of its Successful Bid (as defined in the Bidding Procedures) upon the consummation of the applicable Sale Transaction. d. The Deposit of any Qualified Bidder will be forfeited to the Debtors if (i) the Qualified Bidder attempts to modify, amend, or withdraw its Qualified Bid, except as permitted in the Bidding Procedures or with the Debtors' written consent, during the time the Qualified Bid remains binding and irrevocable or (ii) the Qualified Bidder is selected as a Successful Bidder and fails to enter into the required definitive documentation or to consummate the applicable Sale Transaction in accordance with the Bidding Procedures. e. The requirements set forth in the "Deposit" section do not apply to the Stalking Horse Bidder and shall be governed instead by the Stalking Horse Agreement. 9. <u>Proposed Asset Purchase Agreement.</u> A Qualified Bid must include, in both PDF and MS-WORD format, an executed purchase agreement (including the disclosure schedules and exhibits thereto) (the "Proposed Purchase Agreement"), together with a copy of the same that has been marked against the Stalking Horse Agreement, a copy of which is located in the Data Room. 10. <u>Employee Obligations.</u> A Qualified Bid must specify (i) whether or not the Potential Bidder intends to hire a portion or all of the Debtors' employees and (ii) expressly propose the treatment of the Debtors' prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements, including, offer letters, employment agreements, consulting agreements, severance arrangements, retention bonus agreements, change in control arrangements, retiree benefits, and any other employment-related agreements. 11. <u>Conditions to Closing.</u> Each Bid must identify with particularity each condition to closing and state the expected date of Closing of the Sale Transaction. 12. <u>Designation of Contracts and Leases.</u> A Qualified Bid must identify with particularity each executory contract and unexpired lease to be assumed and assigned by Debtors to the Potential Bidder. Each Bid must also include information demonstrating adequate assurance of future performance under such contracts and leases in satisfaction of the requirements under section 365(f)(2)(B) of the Bankruptcy Code. 13. <u>Financial Information.</u> A Qualified Bid must include the following: - A Qualified Bid must contain such financial and other information that allows the Debtors, in consultation with the Consultation Parties, to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate the applicable Sale Transaction, including: - such financial and other information setting forth the Potential Bidder's willingness to perform under any contracts that are assumed and assigned to such party, - current financial statements or similar financial information certified to be true and correct as of the date thereof, - proof of financing commitments (if needed) to close the applicable Sale Transaction (not subject to, in the Debtors'

⁸ The Debtors will consider a Qualified Bid for less than all or substantially all of the Assets, as long as the Debtors have an acceptable sale, restructuring, or other solution for the remaining Assets, as reasonably determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders.

	discretion, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, any unreasonable conditions), (iv) contact information for verification of such information, including any financing sources, and (v) any other information reasonably requested by the Debtors, OpCo Agent, OpCo Lenders, DIP Agent, or DIP Lenders necessary to demonstrate that the Potential Bidder has the ability to close the applicable Sale Transaction in a timely manner. b. Any funding commitments or other financing must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants, conditions, term, and termination provisions acceptable to the Debtors. 14. <u>Representations and Warranties.</u> A Qualified Bid must include the following representations and warranties: a. Statement that Potential Bidder had opportunity to conduct any and all due diligence regarding the applicable Assets prior to submitting its bid, b. Statement that Potential Bidder relied solely upon its own due diligence in making its Bid and did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding such Assets or liabilities or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the Potential Bidder's Proposed Purchase Agreement, c. Statement that the Potential Bidder agrees to serve as the back-up bidder (the "Back-Up Bidder"), if its bid is selected as the second or best bid after the Successful Bid with respect to the applicable Assets, d. Statement that the Potential Bidder has not engaged in any collusion with respect to the submission of its bid, e. Statement that all proof of financial ability to consummate the applicable Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct, and f. Statement that the Potential Bidder agrees to be bound by the terms of the Bidding Procedures. 15. <u>Required Approvals.</u> A Qualified Bid must include the following: a. A statement or evidence that the Potential Bidder has made or will make in a timely manner all necessary filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or other Antitrust Laws (as defined in the Stalking Horse Agreement), as applicable, and pay the fees associated with such filings. b. A statement or evidence identifying each governmental and regulatory third-party approval required for the Potential Bidder to consummate the Sale Transaction. c. A statement or evidence of Potential Bidder's plan, including a detailed timeline, and ability to obtain all requisite governmental, regulatory, or other third-party approvals and the proposed timing for the Potential Bidder to undertake the actions required to obtain such approvals. d. A statement or evidence that the Bid is reasonably likely (based on antitrust or other regulatory issues, experience, and other considerations) to be

	consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors. e. A statement or evidence that the Potential Bidder's legal counsel will discuss with and explain to the Debtors' legal counsel such Potential Bidder's regulatory analysis, strategy, and timeline for securing all such approvals as soon as reasonably practicable, and in no event later than the time period contemplated in the Stalking Horse Agreement. 16. <u>Advisors.</u> A Qualified Bid must state the identity and contact information of the external advisors (including financial, legal, accounting, tax, technical, commercial, and others), if any, that the Potential Bidder has engaged to assist in the Sale Transaction. 17. <u>Corporate Authorization.</u> A Qualified Bid must include evidence of corporate authorization and approval from the Potential Bidder's board of directors (or comparable governing body) with respect to the submission, execution, and delivery of a Bid, participation in the Auction, and closing of the transactions contemplated by the Potential Bidder's Proposed Purchase Agreement in accordance with the terms of the Bid and the Bidding Procedures. 18. <u>Proposed Transition Services Agreement.</u> Each Bid must include, in both PDF and MS-WORD format, an executed transition services agreement (including any schedules and exhibits thereto), together with a copy of the same that has been marked against the transition services agreement executed by the Stalking Horse Bidder, a copy of which is located in the Data Room. 19. <u>Other Requirements.</u> A Qualified Bid must: - Include a commitment that the Bid is formal, binding, and unconditional (except for those conditions expressly set forth in the Proposed Purchase Agreement), is not subject to any due diligence or financing contingency, and is irrevocable until the Debtors, in consultation with the Consultation Parties, notify such Potential Bidder that such bid has not been designated as a Successful Bid or a Back-Up Bid, or until the first business day after consummation of a Sale Transaction with a Successful Bidder; <u>provided</u> that the foregoing shall not apply to the Stalking Horse Bidder except as otherwise set forth in the Stalking Horse Agreement. - Include a statement that the Bid does not entitle the Potential Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement, and a waiver of any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code related to the bidding process; <u>provided</u> that the foregoing shall not apply to the Stalking Horse Bidder. - Provide contact information of the specific person(s) whom the Debtors or their advisors should contact in the event that the Debtors have any questions or wish to discuss the Bid submitted by the Potential Bidder. - Include written evidence of available cash, a written, binding commitment for financing (not subject to any conditions other than those expressly set forth in the Proposed Purchase Agreement) and such other evidence of ability to consummate the transaction contemplated by the Proposed Purchase Agreement, the Bidding Procedures Order, and the Bidding Procedures, as acceptable in the Debtors' business judgment. - Provide the identity of each entity that will be participating in connection with such Bid and taking ownership of the Assets (including any equity owners or sponsors, if the Potential Bidder is an entity formed for the purpose of consummating the Sale Transaction) and a copy of a board resolution or

	similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed and to consummate the transaction contemplated by the Proposed Purchase Agreement. f. Include a covenant to cooperate with the Debtors, OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements. g. Include a detailed analysis of the value of any non-cash component of the Bid, if any, and back-up documentation to support such value.
Provisions Providing Bid Protections to "Stalking Horse" or Initial Bidder	1. <u>Termination Payment</u>. The Stalking Horse Bidder shall be entitled to payment of (i) a break-up fee in an amount equal to \$8,550,000 <i>plus</i> (as applicable) (ii) the reasonable, out-of-pocket, and documented expenses of the Stalking Horse Bidder incurred in connection with the Stalking Horse Agreement and the transactions contemplated thereunder, up to an aggregate amount of \$2,850,000. 2. <u>Bidding Increments</u>. At the Auction, bidding for the Assets will start with the highest or otherwise best purchase price and/or terms received as determined by the Debtors in their sole discretion and will proceed thereafter in minimum bid increments of not less than \$1,000,000 (a "Minimum Overbid Amount").
Modification of Bidding and Auction Procedures	1. The Debtors may extend the Bid Deadline in their discretion without further order of the Bankruptcy Court subject to providing prior notice to all Potential Bidders, the Stalking Horse Bidder, and the Consultation Parties. 2. The Debtors, in consultation with the Consultation Parties, reserve the right to work with any Potential Bidder in advance of the Auction to cure any deficiencies in a bid that is not initially deemed a Qualified Bid. 3. The Debtors reserve the right to and may increase or decrease the Minimum Overbid Amount at any time during the Auction. 4. The Debtors may, in consultation with the Consultation Parties, adopt rules for the Auction consistent with the Bidding Procedures and the Bidding Procedures Order that the Debtors, in consultation with the Consultation Parties, reasonably determine to be appropriate to promote a competitive auction. 5. The Sale Hearing may be adjourned or continued to a later date by the Debtors, after consultation with the Stalking Horse Bidder and counsel to the OpCo Lenders and DIP Lenders, by sending notice prior to or making an announcement at the Sale Hearing. 6. The Debtors reserve the right to extend the deadlines set forth in the Bidding Procedures.
Closing with Alternative Backup Bidders	1. The Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders (as defined in the Bidding Procedures)) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders (as defined in the Bidding Procedures)), identify which Qualified Bid constitutes the second highest or otherwise best bid and deem such second highest or otherwise best bid as the back-up bid (the "Back-Up Bid").

	2. The Back-Up Bid shall remain open and irrevocable until the earliest to occur of: a. the consummation of the Sale Transaction with a Successful Bidder, and b. the release of such Back-Up Bid by the Debtors in writing (such date, the “Back-Up Termination Date”). 3. If a Sale Transaction with a Successful Bidder is terminated prior to the Back-Up Termination Date, the Back-Up Bidder shall be deemed a Successful Bidder and shall be obligated to consummate the Back-Up Bid as if it were a Successful Bid; <u>provided</u> that if the Stalking Horse Bid is deemed the Back-Up Bid, the Stalking Horse Bidder shall only be obligated to consummate the Back-Up Bid in accordance with the terms of the Stalking Horse Agreement.
Provisions Governing the Auction	If the Debtors do not receive any Qualified Bids (other than the Stalking Horse Bid) for any of the Assets on the same or better terms as provided in the Stalking Horse Bid by the Bid Deadline, the Debtors will not conduct the Auction and shall file a notice with the Bankruptcy Court by July 16, 2025, at 4:00 p.m. (prevailing Central Time), or as soon as practicable thereafter, indicating that the Auction has been cancelled. The Debtors shall also publish such notice on the website of their claims and noticing agent, Stretto, Inc. If the Debtors, in consultation with the Consultation Parties, determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed a Successful Bid. If the Debtors, in consultation with the Consultation Parties, receive any Qualified Bids (other than the Stalking Horse Bid) with respect to the same or overlapping Assets or group of Assets, the Debtors will conduct the Auction on July 17, 2025, at 9:00 a.m. (prevailing Central Time), at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to bidders, or at such other date, time, and location as shall be timely communicated to all parties entitled to attend the Auction. Participants and Attendees: A. Only Qualified Bidders will be eligible to participate in Auction, subject to such limitations as the Debtors may impose in good faith. B. Professionals and/or other representatives of the Debtors and the Consultation Parties shall be permitted to attend and observe the Auction. C. Each Qualified Bidder shall be required to confirm, both before and after the Auction, that it has not engaged in any collusion with respect to the submission of any Bid, the bidding, or the Auction. Auction Procedures: A. <u>Open Auction</u>. The Auction will be conducted openly and shall be transcribed or recorded. B. <u>Baseline Bids</u>. Bidding for the Assets will start with the highest or otherwise best Purchase Price and/or terms received as determined by the Debtors in their sole discretion. C. <u>Minimum Overbid</u>. Bidding shall proceed in the amount of the Minimum Overbid Amount. The Debtors, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP

	Lenders), reserve the right to increase or decrease the Minimum Overbid Amount at any time during the Auction.

B. Stalking Horse Bid and Stalking Horse Bid Protections

19. The Debtors request approval of (i) the designation of the Stalking Horse Bidder and Stalking Horse Bid on the terms provided in the Stalking Horse Agreement and (ii) standard stalking horse bid protections, in particular, the Termination Payment of (a) a break-up fee equal to \$8,550,000, *plus* (as applicable) (b) the reasonable, out-of-pocket and documented expenses of the Stalking Horse Bidder incurred in connection with the Stalking Horse Agreement and transactions contemplated thereunder, up to an aggregate amount equal to \$2,850,000 as an administrative expense. The Termination Payment is payable in the event that (a) the Debtors consummate one or more sale transactions for the Assets with one or more other bidders, (b) there is an uncured material breach by the Debtors under the Stalking Horse Agreement that prevents a condition to closing from being satisfied, or (c) the Debtors' governing bodies exercise a "fiduciary out" after December 31, 2025. In addition, the Stalking Horse Bidder is entitled to only the expense reimbursement portion of the Termination Payment if the Stalking Horse Agreement is terminated due to the dismissal or conversion to chapter 7 of the chapter 11 cases, the appointment of a trustee or examiner with expanded powers in the chapter 11 cases, the Court's denial of the Sale Order, or an event of default under the DIP Credit Agreement that causes all amounts due thereunder to accelerate. In any event, the Termination Payment is only payable in the absence of a material breach by the Stalking Horse Bidder, pursuant to which the Debtors would be entitled to terminate the Stalking Horse Agreement.

20. In the event the Stalking Horse Bidder is not the Successful Bidder at the Auction, as described in more detail below, the Stalking Horse Bidder agrees to serve as the Back-Up Bidder.

21. Given the Debtors' need to maximize value for creditors through a timely and efficient marketing and sale process, the ability to designate a Stalking Horse Bidder and offer such bidder Stalking Horse Bid Protections is justified, appropriate, and essential.

22. The chart below summarizes the significant terms of the Stalking Horse Agreement.

MATERIAL TERMS OF THE STALKING HORSE AGREEMENT ⁹	
Purchase Price	The consideration is (a) (i) \$285 million in cash (subject to certain purchase price adjustments) plus (ii) the amounts of any Deposits which are transferred to the Buyer (<i>i.e.</i>, the Stalking Horse Bidder) at Closing pursuant to <u>Section 2.06</u> minus (iii) the Pro Rata Bonus Amount plus (iv) amounts paid to Buyer pursuant to the Expense Reimbursement Agreement minus (v) the Budgeted Capex Shortfall, minus (vi) [REDACTED] and (b) the assumption of the Assumed Liabilities. Stalking Horse Agreement § 3.01.
Transferred Assets	Subject to the exclusions set forth in <u>Section 2.01(b)</u> and <u>Section 2.02</u> and subject to <u>Section 6.10</u> of the Stalking Horse Agreement, at the Closing, Seller Parent shall, and shall cause each other Seller Party to, sell or otherwise transfer to Buyer all of such Seller Party's right, title, and interest in and to all of the assets, properties, and rights owned by such Seller Party¹⁰ primarily related to the operation of the Business¹¹ (other than the Excluded Assets, as set forth in greater detail in the Stalking Horse Agreement) (collectively, the "Transferred Assets"). The Transferred Assets include: all real property owned in fee by any Seller Party and related to the Business (including the real property set forth on <u>Schedule 2.01(a)(i)</u>) held by such Seller

⁹ All references to sections or schedules in this summary refer to the Stalking Horse Agreement, unless otherwise specified.

¹⁰ "**Seller Parties**" include (i) Midwest Fiber Holdings LP, a Delaware limited partnership ("**Seller Parent**"), and (ii) the persons set forth on Schedule A to the Stalking Horse Agreement.

¹¹ The "**Business**" means collectively, the business conducted by the Seller Parties of developing, marketing, and providing bandwidth infrastructure and managed services, operating underground and aerial fiber networks or selling bandwidth infrastructure and related products, including Ethernet transport, fiber-distributed cellular backhaul, wavelengths and dedicated internet access or voice and other voice managed services, in each case to business, carrier, government, and other non-residential customers, other than the Excluded Business. For the avoidance of doubt, Business shall include the Seller Parties' operations in Illinois except for the IL Divested Business.

	Party, together with (to the extent of such Seller Party's interest therein) all buildings, structures, improvements, facilities, fixtures, and appurtenances thereto, and all rights in respect thereof, and all servitudes, easements, rights-of-way, and other surface use agreements and water use agreements, if any, related thereto (the "Transferred Owned Real Property"), in each case, other than as included in the Excluded Assets; 2. (A) subject to <u>Section 2.04(d)</u>, the real property that is leased by any Seller Party, in each case, granting such Seller Party a valid leasehold or subleasehold estate or other right to use or occupy such real property which is related to the Business (including the real property set forth on <u>Schedule 2.01(a)(ii)(A)</u>) (the "Transferred Leased Real Property", together with the Transferred Owned Real Property, collectively, the "Transferred Real Property") and all rights in respect thereof (including, to the extent assignable or transferable, all options and rights of first refusal) and all tenements, hereditaments, appurtenances, and other property rights appertaining thereto (such leases, subleases, licenses, and other agreements pursuant to which any Seller Party holds any Transferred Leased Real Property, including the right to all security deposits and other amounts and instruments deposited by or on behalf of applicable Seller Party thereunder, the "Transferred Leases"), in each case, other than to the extent an Excluded Asset and (B) the easements, fiber optic networks, cabling, and other fixed network-related assets displayed on the KMZ Map, including without limitation the easements set forth on <u>Schedule 2.01(a)(ii)(B)</u>, in each case, other than to the extent an Excluded Asset; 3. subject to <u>Section 2.04(d)</u>, (A) all non-Executory Contracts set forth on <u>Schedule 2.01(a)(iii)(A)</u>, (B) all the BTOP Grants, (C) all Separated Business Contracts, and (D) all Executory Contracts set forth on <u>Schedule 2.01(a)(iii)(D)</u>, in each case excluding, as of and following the Cut-Off Date, (x) any Specified 2.02 Contracts and Specified 6.10 Contracts, in each case for which Buyer's consent has not been obtained, or any other Holdback Contracts or Non-Separated Contracts that have not otherwise been properly separated and/or assigned to Buyer, in accordance with <u>Section 2.02</u> or <u>Section 6.10</u>, respectively, as of the Cut-Off Date and/or are Excluded Contracts hereunder and (y) Contracts that the Parties mutually determine would reasonably be expected (I) to cause the conditions set forth in <u>Section 10.01(b)</u> and/or <u>Section 10.02(b)</u> not to be satisfied, or (II) otherwise require additional approval from or filing with any Government Authority and/or reasonably be expected to implicate additional scrutiny therefrom (the Contracts in <u>clauses (A), (B), (C), and (D)</u>, collectively with the Transferred Leases, the "Transferred Contracts"); 4. to the maximum extent permitted by the Bankruptcy Code or other applicable Law, the IRUs related to the IRU Agreements that are set forth on <u>Schedule 2.01(a)(iv)</u>; 5. to the maximum extent permitted by the Bankruptcy Code or other applicable Law, all Permits, including all Communications Permits and Environmental Permits, to the extent that such Permits are primarily related to the Business, including the ownership or operation thereof, in each case, other than as included in the Excluded Assets; 6. (A) all rights of such Seller Party under or pursuant to all warranties, representations, and guarantees made by suppliers, manufacturers, contractors for other third parties to the extent pertaining to any Transferred Assets or (B) all rights and defenses pertaining to any Assumed Liability; 7. (A) all Business Intellectual Property (including the Business Registered IP set forth on <u>Schedule 2.01(a)(vii)</u>), along with (1) all income, royalties, damages and

	payments due or payable to any Seller Party as of the Closing or thereafter, including damages and payments for past, present or future infringements or misappropriations thereof, (2) the right to sue and recover for past infringements or misappropriations thereof, (3) any and all corresponding rights that, now or hereafter, may be secured throughout the world, and (4) all copies and tangible embodiments of any such Business Intellectual Property in any Seller Party's possession or control, (B) Business Technology, and (C) Business Systems, in each case of <u>clauses (A), (B) and (C)</u>, other than to the extent scheduled as Excluded Assets; 8. all Assumed Employee Plans and any and all assets, trusts, funding vehicles and administrative services or other contracts or property related thereto; 9. to the extent not included as a Transferred Contract, (A) all non-competition, non-solicitation and restrictive covenant agreements and arrangements that are primarily related to the Business and (B) all invention assignments and work made for hire provisions, in each case, arising by operation of Law or Contract with respect to the relationship between any Seller Party and any Covered Employee or Former Covered Employee and that are primarily related to the Business; 10. to the maximum extent permitted by the Bankruptcy Code or applicable Law (including Privacy Laws and the published privacy policies of the applicable Seller Party in effect as of the date of the Stalking Horse Agreement), the Transferred Books and Records; 11. all tangible personal property and interests therein owned by any Seller Party related to the Business, including furniture, furnishings, office equipment, communications equipment, vehicles, and other tangible personal property (including, rights, if any, in any of the foregoing purchased subject to any conditional sales or title retention agreement in favor of any other Person), in each case, other than to the extent scheduled as Excluded Assets; 12. all inventory used in connection with the Business, wherever located, including raw materials, works in progress, packaging, supplies, tooling and parts, whether held at any location or facility of any Seller Party or in transit to any Seller Party, in each case, as of the Closing Date, in each case, other than as included in the Excluded Assets; 13. the assets listed on <u>Schedule 2.01(a)(xiii)</u>; 14. all goodwill of the Business; 15. (A) all Avoidance Actions (other than D&O Avoidance Actions) primarily related to the Transferred Assets and/or Assumed Liabilities, including actions against vendors and service providers that are counterparties to Transferred Contracts or related to Assumed Liabilities and (B) except for Retained Set-Off Rights, all rights, claims, Causes of Action, rights of recovery, rights of set-off, and rights of recoupment or other Action existing as of the Closing Date of any Seller Party against any Transferred Employee; 16. all Causes of Action (including counterclaims) and defenses, including those arising in connection with the Bankruptcy Cases; 17. all Deposits determined to be included as a Transferred Asset in accordance with <u>Section 2.06</u>; and

	18. to the extent not an Excluded Asset, for the avoidance of doubt, prepayments pursuant to Transferred Contracts or otherwise arising out of the Transferred Assets (as applicable). Stalking Horse Agreement § 2.01(a).
Assumed Liabilities	Upon the consummation of the Closing, Buyer shall, effective as of the Effective Time, assume and thereafter timely pay, discharge, and perform in accordance with their terms, only the following Liabilities, without duplication and only to the extent not paid prior to the Closing, and in each case excluding the Excluded Liabilities (the “Assumed Liabilities”). Subject to the exclusions set forth in <u>Section 2.01(d)</u>, the Assumed Liabilities shall include the following Liabilities of the Seller Parties: - except as otherwise set forth in <u>Section 2.01(c)(v)</u> and <u>Section 2.01(c)(vi)</u>, all Liabilities arising under any of the Transferred Contracts, in each case, solely to the extent arising from periods occurring on or after the Closing and relating (and only to the extent so relating) to facts, circumstances or occurrences first arising after the Closing and that do not arise from or relate to, and are not in connection with, any event, circumstance or condition occurring or existing at or prior to the Closing that, with or without notice or lapse of time, would constitute or result in a breach, violation or default under applicable Law or any such Transferred Contracts by any Seller Party or any of their Affiliates; 50% of all Liabilities with respect to Transfer Taxes; - all Liabilities accruing after the Closing, under Environmental Laws, including those relating in any way to the environment or natural resources, human health and safety, or Hazardous Materials; - all Liabilities relating to Buyer’s ownership or operation of the Transferred Assets, to the extent arising from events, facts, or circumstances that occur from and after the Effective Time, solely to the extent arising from periods occurring on or after the Closing and relating (and only to the extent so relating) to facts, circumstances or occurrences first arising after the Closing and that do not arise from or relate to, and are not in connection with, any event, circumstance or condition occurring or existing at or prior to the Closing that, with or without notice or lapse of time, would constitute or result in a breach, violation or default under applicable Law or any such Transferred Contracts by any Seller Party or any of their Affiliates; - all Liabilities arising under any finance lease that is a Transferred Contract (and excluding, for the avoidance of doubt, any Cure Costs related to any such finance lease that is a Transferred Contract); - amounts expressly required to be paid by Buyer pursuant to the terms of the Stalking Horse Agreement; - any Liability expressly assumed by Buyer pursuant to <u>Section 6.08</u>; and - the Liabilities listed on <u>Schedule 2.01(c)(viii)</u>. Stalking Horse Agreement § 2.01(c).

Excluded Assets	Notwithstanding anything to the contrary herein, the following assets of or in the possession of the Seller Parties (the “Excluded Assets”) shall be retained by the Seller Parties and their respective Affiliates: 1. subject to <u>Section 2.04(d)</u>, all Contracts set forth on <u>Schedule 2.01(b)(i)</u> and those Contracts rejected in the Bankruptcy Cases prior to the Closing Date in accordance with the Stalking Horse Agreement (“Excluded Contracts”); 2. all accounts receivable owed to any Seller Party related to the Business prior to the Closing, including any Intercompany accounts receivable; <u>provided</u> that unbilled amounts with respect to DISH that, as of the Closing Date, relate to future periods following the Closing Date, shall not be Excluded Assets (and shall be Transferred Assets); 3. all Cash; 4. other than the Transferred Owned Real Property and Transferred Leased Real Property, all right, title, and interest in and to any other owned or leased real property, together with all improvements, facilities, fixtures, and appurtenances thereto, and all rights in respect thereof, and all servitudes, easements, rights-of-way, other surface use agreements, and water use agreements related thereto and, with respect to any such real property, all rights in respect thereof (including all options and rights of first refusal) and all tenements, hereditaments, appurtenances, and other property rights appertaining thereto; 5. all Intellectual Property, Technology, and Systems set forth on <u>Schedule 2.01(b)(v)</u>; 6. all Personal Data that is nontransferable under the Bankruptcy Code or applicable Law (including Privacy Laws or under the privacy policies or notices of the applicable Seller Party in effect at the time of collection of such Personal Data); 7. all claims, rights, or interests of the Seller Parties or their respective Affiliates in or to any refund, rebate, abatement, or other recovery for Taxes and any other Tax assets (including any Tax attributes), together with any interest due thereon or penalty rebate arising therefrom, in each case (A) based on net income that is imposed on the Seller Parties or any of their respective Affiliates, (B) allocable to the Seller Parties pursuant to <u>Section 9.02</u>, or (C) attributable to the Excluded Assets; 8. all Tax Returns and other Tax records (including all related working papers) primarily related to (A) the Excluded Assets or (B) income Taxes of the Seller Parties or their respective Affiliates; 9. all Insurance Policies and all rights of any nature with respect to any such Insurance Policy, including any recoveries thereunder and any rights to assert claims seeking any such recoveries; 10. all nontransferable Permits (provided that the Permits set forth on <u>Schedule 2.01(b)(xi)</u> are those known as of the Agreement Date by Seller Parent to be nontransferable); 11. all rights and interests of any of the Seller Parties under the Transaction Agreements; 12. all Employee Plans that are not Assumed Employee Plans, and any and all assets, trusts, funding vehicles, insurance policies and administrative service or other contracts or property related thereto;

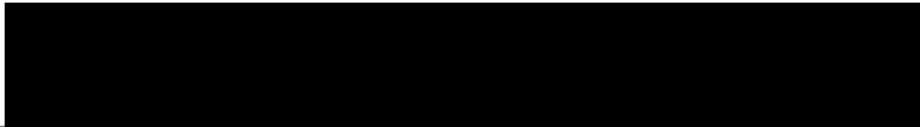
	13. (A) all minute books (and other similar corporate records) and stock records, (B) any books and records primarily related to the Excluded Assets, (C) any books and records or other materials of or in the possession of the Seller Parties that (I) any of the Seller Parties are required by Law or by Order of the Bankruptcy Court to retain or (II) any of the Seller Parties are prohibited by Law from delivering to Buyer, (D) any copies of any books and records that (I) any of the Seller Parties reasonably believes are necessary to enable the Seller Parties to prepare or file Tax Returns or (II) any Seller Party and its Affiliates retain pursuant to <u>Section 7.01(a)</u>, and (E) any books, records, files, or papers that are not Transferred Books and Records; 14. (A) all records and reports prepared or received by any Seller Party or any of its Affiliates in connection with the sale of the Business or the Transactions or any other Transaction Agreement, including all analyses relating to the Business for purposes of the sale of the Business or the Transactions, or related to Buyer or any third-party bidder or potential purchaser, (B) all bids and expressions of interest received from third parties with respect to the Business, and (C) all privileged communications described in <u>Section 12.21</u>; 15. any warranties, representations, and guarantees primarily related to any Excluded Asset or rights and defenses primarily related to any Excluded Liability; 16. all right, title and interest in and to all equity interests of any Person owned by any Seller Party; 17. all assets or rights of every kind and description, in each case, to the extent used exclusively in connection with the PA Business, wherever located, whether real, personal, or mixed, tangible or intangible, that are owned by any Seller Party; 18. the IL Divested Business Assets and the MO Divested Business Assets; 19. all inventory listed on <u>Schedule 2.01(b)(xix)</u>; 20. all (A) D&O Avoidance Actions, (B) Avoidance Actions other than those set forth in <u>Section 2.01(a)(xv)</u>, and (C) setoff or clawback rights that are set forth on <u>Schedule 2.01(b)(xx)</u> or that arise from Avoidance Actions in relation to any Liability that is not an Assumed Liability (each, a “Retained Set-Off Right”); and 21. the assets listed on <u>Schedule 2.01(b)(xxi)</u>. Stalking Horse Agreement § 2.01(b).
Excluded Liabilities	Notwithstanding any other provision of the Stalking Horse Agreement, Buyer is not assuming or agreeing to pay or discharge, and the Seller Parties shall be solely and exclusively liable with respect to Liabilities of the Seller Parties or otherwise with respect to the Business or Excluded Business that are not Assumed Liabilities (the “Excluded Liabilities”), which shall include the following: - except for Liabilities arising under finance leases that are Transferred Contracts or as otherwise set forth on <u>Schedule 2.01(c)(ix)</u>, any Debt, including any Intercompany Debt; - any Liability to the extent related to or arising out of any Excluded Asset or the Excluded Business;

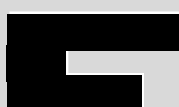
	3. any Liability for (A) income Taxes of any of the Seller Parties or their respective Affiliates, or any combined, unitary, or consolidated group of which any of the foregoing is or was a member, (B) Taxes attributable to the Transferred Assets allocable to any Tax period or portion of any Straddle Period ending on or prior to the Closing Date (determined, in the case of any Straddle Period, in accordance with <u>Section 9.02</u>), and (C) Taxes primarily related to the Excluded Assets; 4. any Liability expressly retained by the Seller Parties pursuant to <u>Section 6.08</u> or the other express terms of the Stalking Horse Agreement; 5. all Liabilities for accounts payable or other accrued expenses or other accrued Liabilities of any kind owed by any Seller Party or any of their Affiliates as of or relating to prior to the Closing, including any Intercompany accounts payable; 6. the IL Divested Business Liabilities and the MO Divested Business Liabilities; 7. Liabilities relating to amounts to be paid by the Seller Parties pursuant to the Stalking Horse Agreement, including brokers fees; 8. any Liabilities relating to any existing Liens (other than Permitted Liens); 9. any regulatory fees, franchise fees, universal service contributions, and right-of-way fees, including any late fees, penalties and interest arising from the foregoing which have not been timely or fully paid related to the Business or the ownership, operation or use of the Transferred Assets for any period on or before the Closing Date; <u>provided</u> that the foregoing shall not include any filing fees that Buyer is expressly obligated to bear pursuant to <u>Section 6.04(b)</u> or <u>Section 6.04(c)</u>; 10. all Liabilities accruing prior to the Closing under Environmental Laws, including those relating in any way to the environment or natural resources, human health and safety, or Hazardous Materials; 11. all Liabilities accruing, arising out of or relating to the ownership, conduct or operation of the Excluded Business or the ownership or use of the Excluded Assets (or any "successor-in-interest," "de facto merger" or other theories of liability related thereto); 12. all Seller Transaction Expenses; 13. all Cure Costs; 14. all Liabilities subject to administrative expense status under section 503(b)(9) of the Bankruptcy Code; 15. 50% of all Liabilities with respect to Transfer Taxes; 16. all Liabilities associated with (A) checks that need to be recut or re-issued to pay for prepetition Liabilities after the Petition Date or (B) written but uncashed checks, or initiated but incomplete wire or ACH transfers; 17. any Liability arising out of any investigation, inquiry, audit, enforcement action, or similar proceeding by a Government Authority primarily related to the operation of the Business, including in connection with the operation of the Transferred Assets, for any period before the Closing Date;

	18. all Liabilities for Non-Recurring Credits; and 19. all Liabilities set forth on Schedule 2.01(d)(xix). Stalking Horse Agreement § 2.01(d).
Agreements with Management or Key Employees	All Covered Employees¹² (including those on temporary furlough, leave of absence (including medical leave, military leave, or workers compensation leave) or short-term or long-term disability) may receive from Buyer or an Affiliate of Buyer, in Buyer's sole discretion (including, for the avoidance of doubt, on an employee-by-employee basis), a written offer of employment, to commence as of 12:01 a.m. local time on the Closing Date, and subject to the Closing, no earlier than four months following the designation of Buyer as the successful bidder following the auction, if any, and no later than fifteen Business Days prior to the Closing Date (and in any event no later than fifteen Business Days prior to the Closing Date) (or, for any Covered Employee hired by any Seller Party after written offers of employment are initially issued, as soon as reasonably practicable) and Buyer shall notify Seller Parent of each Covered Employee who is receiving an offer of employment as soon as reasonable but not later than the date of any such offer. Each offer of employment made by Buyer or an Affiliate of Buyer to a Covered Employee shall be subject to and conditioned upon the satisfaction of Buyer's or its applicable Affiliate's customary pre-employment screening process in accordance with Buyer's or its applicable Affiliate's past practice, and provide for: (i) an annual base salary or hourly wage rate, as applicable that is subject to Buyer's discretion and existing policies; (ii) retirement, health and welfare benefits (excluding nonqualified deferred compensation, equity or equity-based, incentive, commission, change in control, transaction, retention, defined benefit pension and post-employment or retiree health and welfare benefits (collectively, the "Excluded Benefits")) that are substantially comparable, in the aggregate, in Buyer's discretion, to (A) those provided to such Covered Employee immediately prior to the Closing under the Employee Plans listed on <u>Schedule 4.13(a)</u>, (B) those provided to similarly situated employees of Buyer or its Subsidiaries, or (C) some combination of <u>clause (A)</u> and <u>clause (B)</u>, in each case, excluding the Excluded Benefits; and (iii) severance payments and benefits that are no less favorable than either (A) those set forth on <u>Schedule 6.08(a)</u>, as applicable to the respective Covered Employee or (B) the severance payments and benefits applicable to similarly situated employees of Buyer or its Affiliates, in each case for <u>clause (A)</u> and <u>clause (B)</u>, as determined in the sole discretion of Buyer and its Affiliates. Stalking Horse Agreement § 6.08.
Releases	Each Party agrees that irreparable damage would occur, and the Parties would not have an adequate remedy at law if any provision of the Stalking Horse Agreement is not performed in accordance with its specific terms or is otherwise breached. Accordingly, each Party agrees that the other Party will be entitled to injunctive relief from time to time to prevent breaches of the provisions of the Stalking Horse Agreement and to enforce specifically the terms and provisions of the Stalking Horse Agreement and the Equity Commitment Letter, in each case (i) without the requirement of posting any bond or other indemnity and (ii) in addition to any other remedy to which it may be entitled, at law or in equity. Furthermore, each Party agrees not to raise any objections to the availability of the equitable remedy of injunctive relief or specific performance to prevent or restrain breaches of the Stalking Horse Agreement and the Equity Commitment Letter, and to specifically enforce the terms of the Stalking Horse Agreement and the Equity Commitment Letter to prevent breaches or threatened breaches of,

¹² "Covered Employee" means the employees of Seller Party or any of its Subsidiaries who work for or provide services to the Business as set forth on Schedule 1.01(b) and any other individuals who are hired by Seller Party or one of its Subsidiaries to provide services to the Business in accordance with Section 6.01(b)(ix).

	or to enforce compliance with, the covenants and obligations of such Party under the Stalking Horse Agreement and the Equity Commitment Letter, in each case, subject to the terms, conditions and limitations herein and therein. Each Party expressly disclaims that it is owed any duty not expressly set forth in the Stalking Horse Agreement, and waives and releases all tort claims and tort causes of action that may be based upon, arise out of, or relate to the Stalking Horse Agreement, or the negotiation, execution, or performance of the Stalking Horse Agreement other than claims for (A) Willful Breach or Funding Willful Breach prior to the valid termination of the Stalking Horse Agreement in accordance with <u>Article XI</u>, in each case subject to <u>Section 11.03</u> and <u>Section 12.05</u>, or (B) Fraud, as determined by the Bankruptcy Court. Stalking Horse Agreement § 12.17(b).
Private Sale/No Competitive Bidding	This Motion and the Stalking Horse Agreement contemplate an auction. Stalking Horse Agreement § 8.04.
Closing and Other Deadlines	The closing of the sale and purchase of the Transferred Assets and the assumption of the Assumed Liabilities (the “Closing”) shall take place by telephone conference and electronic exchange of documents (or, because of recordation purposes originals are needed, then, the exchange of such original documents in recordable form), at 9:00 a.m. (New York City time) on the 15th Business Day following the date upon which all Closing Conditions are satisfied or waived in writing (to the extent permitted by applicable Law) in accordance with <u>Article X</u> (other than those Closing Conditions under the Stalking Horse Agreement that by their nature can only be satisfied at the Closing, but subject to the satisfaction or waiver of those Closing Conditions at such time), or on such other date or at such other time or place as the Parties may expressly agree in writing. For all purposes under the Stalking Horse Agreement and each other Transaction Agreement, (a) except as otherwise expressly provided in the Stalking Horse Agreement or such other Transaction Agreement, all matters at the Closing will be considered to take place simultaneously and (b) the Closing shall be deemed effective as of the Effective Time. Stalking Horse Agreement § 2.03.
Closing Payment Deposit; Letters of Credit	On or prior to the Agreement Date, (i) Buyer shall immediately deposit (or shall have deposited) with Citibank N.A., in its capacity as escrow agent (the “Escrow Agent”) the sum of \$2,850,000 by wire transfer of immediately available funds (the “Deposit Escrowed Amount”) into an escrow account (the “Deposit Escrow Account”), to be released by the Escrow Agent and delivered to either Buyer or Seller Parent (or its designee) in accordance with the Stalking Horse Agreement and the provisions of the Escrow Agreement and (ii) has delivered to Seller Parent one or more Letters of Credit in an aggregate face amount equal to the Letter of Credit Amount (final drafts of which have been provided to Seller Parent at least two Business Days prior to the Agreement Date) and shall maintain such Letters of Credit for the benefit of Seller Parent until the earlier of (A) the Closing, (B) the termination of the Stalking Horse Agreement in accordance with <u>Article XI</u> (other than a Specified Termination) or (C) the payment in full of the Specified Reverse Termination Amount in accordance with the terms of the Stalking Horse Agreement and the Letters of Credit following a Specified Termination. The Letters of Credit shall provide that the issuer of such Letters of Credit shall honor Seller Parent’s request to draw on the Letters of Credit, by Seller Parent upon delivery by Seller Parent to the issuer of the Letter of Credit of the certification signed by Seller Parent, substantially in the form agreed between the parties; <u>provided</u> that Seller Parent is so entitled to the Specified

	Reverse Termination Amount pursuant to <u>Section 3.02(a)</u>, <u>Section 3.02(b)</u>, and <u>Section 11.03(b)</u> (and solely if entitled thereunder). Stalking Horse Agreement § 3.02.
Closing Conditions	The obligations of Buyer to consummate the Transactions shall be subject to the satisfaction or written waiver by Buyer in its sole discretion, at or before the Closing, of each of the following conditions: 1. <u>Representations and Warranties; Covenants.</u> a. (A) all representations and warranties of Seller Parent contained in <u>Article IV</u> (other than the Seller Parent Fundamental Representations) shall be true and correct as of the Closing as if made on the Closing Date (other than representations and warranties that are made as of a specific date, which representations and warranties shall have been true and correct as of such date), except for breaches or inaccuracies, as the case may be, as to matters that, individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; <u>provided</u> that for purposes of determining the satisfaction of the condition in this clause (A), no effect shall be given to any qualifier of “material” or “Material Adverse Effect” in such representations and warranties (other than the word “Material” when used in the instances of the defined term “Material Contract”) and (B) the Seller Parent Fundamental Representations shall be true and correct in all respects, other than for de minimis inaccuracies, in each case, as of the Closing as if made on the Closing Date (other than representations and warranties that are made as of a specific date, which representations and warranties shall have been true and correct as of such date); b. the covenants contained in the Stalking Horse Agreement required to be performed or complied with by Seller Parent at or before the Closing shall have been performed or complied with in all material respects; and c. Buyer shall have received a certificate signed by an authorized officer of Seller Parent, dated as of the Closing Date, certifying as to the satisfaction of matters set forth in the foregoing clauses (a) and (b). 2. <u>Governmental Approvals.</u> All applicable waiting periods under the HSR Act shall have expired or been terminated and all Government Approvals set forth on <u>Schedule 6.04(a)</u> shall have been made or obtained, or if applicable, shall have expired, have been waived by the applicable Government Authority (or other applicable Person), or have been terminated. 3. <u>No Law.</u> There shall be no Law or Order enacted or in effect that prohibits or makes illegal the sale of the Transferred Assets or the other Transactions. 4. <u>Seller Closing Deliverables.</u> The Seller Parties shall have executed and delivered, or caused to be executed and delivered, to Buyer all of the items set forth in <u>Section 3.03(a)</u>. 5. <u>Bankruptcy Court.</u> The Bankruptcy Court shall have entered the Sale Order and no Order staying, amending, modifying, or reversing the Sale Order shall be in effect. 6. <u>Material Adverse Effect.</u> No Material Adverse Effect shall have occurred since the Agreement Date and then be continuing. 7. 

	 Stalking Horse Agreement § 10.02, Ex. L.
	 Stalking Horse Agreement § 3.01(f), Ex. L.
Remedies; Limitation on Liability	Notwithstanding anything to the contrary herein (but subject to <u>Section 12.05</u>, the other applicable provisions of <u>Section 11.03</u>, and to the extent set forth in <u>Section 11.03(d)</u>, <u>Section 12.17</u>), except with respect to claims for Fraud: 1. In each case, prior to the consummation of the Closing or after the termination of the Stalking Horse Agreement (<i>i.e.</i>, whether in the event of (x) Buyer's Funding Willful Breach, (y) Buyer's Willful Breach prior to the consummation of the Closing or after the termination of the Stalking Horse Agreement, or (z) any other breach of or failure to perform under the Stalking Horse Agreement by Buyer (or otherwise) prior to the consummation of the Closing or after the termination of the Stalking Horse Agreement), the Seller Parties' and their Non-Party Affiliate's sole and exclusive remedy (whether in contract or in tort, in Law or in equity or otherwise, or granted by statute or otherwise, whether by or through attempted piercing of the corporate, limited partnership, or limited liability company veil, or any other theory or doctrine, including alter ego or otherwise) against Buyer, Buyer Parent, and its and their respective Non-Party Affiliates for any breach, loss, Liability, or damage or failure to perform under the Transaction Agreements, the Transactions, or in respect of representations made or alleged to be made in connection herewith or in any other Transaction Agreement shall be (subject to the other terms of the Stalking Horse Agreement, including <u>Section 12.05</u> as applicable): a. specific performance pursuant to, and on the terms and conditions set forth in, <u>Section 12.17</u>, (I) prior to the termination of the Stalking Horse Agreement or the Closing or (II) with respect to the Surviving Provisions following the termination of the Stalking Horse Agreement; b. the valid termination of the Stalking Horse Agreement pursuant to and in accordance with <u>Section 11.01</u>; c. following a valid Specified Termination pursuant to <u>Section 11.01(j)</u>, (I) to receive (aa) the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) in accordance with <u>Section 11.03(b)</u>, (bb) Enforcement

Expenses, and (cc) amounts payable or reimbursable under Section 6.12(a) and (II) a claim for (and the right to pursue an Action for) (aa) the amounts contemplated by the foregoing clause (I) to the extent payable and not timely paid hereunder and (bb) monetary damages, not to exceed the Funding Willful Breach Cap in the aggregate (but for the avoidance receipt of the payments and amounts set forth in the foregoing clause (I) shall not count towards the amount of the Funding Willful Breach Cap;

d. following any other valid Specified Termination (other than pursuant to Section 11.01(j)), (I) to receive (aa) the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) in accordance with Section 11.03(b), (bb) Enforcement Expenses, and (cc) amounts payable or reimbursable under Section 6.12(a) and (II) a claim for (and the right to pursue an Action for) the amounts contemplated by the foregoing clause (I) to the extent payable and not timely paid hereunder; or

e. following any termination of the Stalking Horse Agreement that is not a Specified Termination, to the extent of a Willful Breach or other breach of Surviving Provisions, a claim for (and the right to pursue an Action for) monetary damages, not to exceed the Specified Reverse Termination Amount in the aggregate, and Enforcement Expenses.

2. In each case, prior to the consummation of the Closing or after the termination of the Stalking Horse Agreement (*i.e.*, whether in the event of (x) Buyer's Funding Willful Breach, (y) Buyer's Willful Breach prior to the consummation of the Closing or after the termination of the Stalking Horse Agreement, or (z) any other breach of or failure to perform under the Stalking Horse Agreement by Buyer (or otherwise) prior to the consummation of the Closing or after the termination of the Stalking Horse Agreement), no Seller Party nor any of their respective Affiliates or Non-Party Affiliates shall be entitled to bring, and shall in no event support, facilitate, encourage or take any action other than opposing the bringing of any action or other Action against Buyer, Buyer Parent or any of their respective Affiliates or Non-Party Affiliates (and neither Buyer, Buyer Parent nor any of their respective Affiliates or Non-Party Affiliates shall have any Liability) with respect to, arising out of, relating to or in connection with the Stalking Horse Agreement or the other Transaction Agreements and the Transactions and Buyer Transactions, in each case, other than pursuant to the remedies set forth in Section 11.03(d)(i) subject to the terms and limitations herein.

In no event shall: (A) the Seller Parties be permitted or entitled to receive both (x) a grant of specific performance of the Stalking Horse Agreement resulting in the consummation of the Closing and (y) receipt of the aggregate amount of the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) or any other monetary damages hereunder; (B) the payment of the aggregate amount of the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) occur more than once; (C) the Letter of Credit Funding (including if Buyer pays (or causes to be paid) such Letter of Credit Amount) or the payment of the Deposit Escrowed Amounts (if applicable), in either case, occur on more than one occasion; or (D) the Seller Parties be permitted or entitled to receive both (x) monetary damages, on the one hand, and (y) the Letter of Credit Funding or other payment of the Letter of Credit Amount and/or payment of the Deposit Escrowed Amounts (if applicable) following

	the termination of the Stalking Horse Agreement, on the other hand, other than to the extent of Fraud or Funding Willful Breach. Nothing in <u>Section 11.03</u> shall prohibit any Seller Party from pursuing its right to obtain specific performance pursuant to <u>Section 12.17</u> prior to the termination of the Stalking Horse Agreement or Closing, or with respect to Surviving Provisions following the termination of the Stalking Horse Agreement or Surviving Covenants following the Closing. The Parties further acknowledge that Seller Parties may pursue both (i) a grant of specific performance in accordance with <u>Section 12.17</u>, on the one hand, and (ii) (x) the payment of the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof), or (y) solely in the event of a Funding Willful Breach, a claim for monetary damages not to exceed the Funding Willful Breach Cap, on the other hand, subject to the terms of <u>Section 11.03</u>. For the avoidance of doubt, the availability of Seller Parent's right to terminate the Stalking Horse Agreement pursuant to a Specified Termination shall in no way obligate any Seller Party to pursue the remedy provided in <u>Section 11.03(a)</u>, and unless and until the Stalking Horse Agreement is terminated, the Seller Parties shall retain and reserve all rights to enforce specific performance of the Stalking Horse Agreement pursuant to <u>Section 12.17</u>, resulting in the consummation of the Closing, subject to the terms hereof. Stalking Horse Agreement § 11.03(d)–(f). <u>Limitation on Liability.</u> Notwithstanding anything in the Stalking Horse Agreement or in any other Transaction Agreement to the contrary, and except in the event of Fraud: (a) the maximum aggregate Liability of the Seller Parties under the Stalking Horse Agreement, whether in contract or in tort, in Law or in equity or otherwise, or granted by statute or otherwise, whether by or through attempted piercing of the corporate, limited partnership, or limited liability company veil, or any other theory or doctrine, including alter ego or otherwise, shall not exceed the amount of the Termination Payment; (b) in no event shall any Party have any Liability under the Stalking Horse Agreement (including under <u>Article XII</u>) for any punitive damages; and (c) the maximum aggregate Liability of Buyer, Buyer Parent and their respective Non-Party Affiliates under the Stalking Horse Agreement, collectively, whether in contract or in tort, in Law or in equity or otherwise, or granted by statute or otherwise, whether by or through attempted piercing of the corporate, limited partnership, or limited liability company veil, or any other theory or doctrine, including alter ego or otherwise, (taking into account all claims hereunder, all amounts funded under Letters of Credit and from the Deposit Escrow Account, which shall be deemed to have been paid and borne by Buyer hereunder), including in the case of Willful Breach, shall not exceed: (i) except in the case of Fraud or Funding Willful Breach, (A) the Specified Reverse Termination Amount, <u>plus</u> (B) Enforcement Expenses, <u>plus</u> (C) all amounts payable or reimbursable under <u>Section 6.12(a)</u>; and (ii) in the case of Funding Willful Breach only, (A) the Specified Reverse Termination Amount then unpaid, and after accounting for amounts recovered by Seller Parent or any Seller Party in accordance with the Stalking Horse Agreement (including by way of payment by (or on behalf of) Buyer or Buyer Parent, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) <u>plus</u> (B) monetary damages determined by a court of competent jurisdiction, which shall not exceed the Funding Willful Breach Cap in the aggregate; for the avoidance of doubt, in no event shall such aggregate Liability (collectively considering all sources and/or means of recovery) in the event of Funding Willful Breach exceed \$71,250,000 in the aggregate. Stalking Horse Agreement § 12.05.
Interim Arrangements with Stalking Horse Bidder	Notwithstanding any other provision of the Stalking Horse Agreement to the contrary, the Stalking Horse Agreement shall not constitute an agreement to assign or transfer any Transferred Contract or any claim or right or any benefit arising thereunder or resulting therefrom if an attempted assignment or transfer thereof, without the Consent of a third party (including any Government Authority), would constitute a breach or other contravention thereof or a violation of applicable Law or Order of the Bankruptcy Court and such breach,

contravention or violation cannot be overridden by the Sale Order or other related Order of the Bankruptcy Court (and such Consent has not been obtained prior to the Closing Date). Without limitation of the foregoing, Seller Parent shall reasonably consult with (and in good faith consider the comments of) Buyer and its counsel regarding the form of, and in efforts to obtain, Consents pursuant to Section 2.02; provided that, notwithstanding the foregoing, any alteration, amendment, supplement or modification to any such Transferred Contract that would be adverse to Buyer or the Business shall be in form and substance reasonably acceptable to Buyer (any such contract for which such Consent is required, but is not yet obtained, a “**Specified 2.02 Contract**”).

If, (x) solely with respect to real property leases under which a Seller Party is a lessee, on the earlier of (i) the Closing Date, (ii) two Business Days prior to the date of entry of an order confirming a chapter 11 plan in the Bankruptcy Cases (the “**Plan Confirmation Date**”), and (iii) two Business Days prior to the date that is 210 days after the Petition Date, and, (y) for Transferred Contracts that are not real property leases under which a Seller Party is a lessee, the earlier of (i) the Closing and (ii) two Business Days prior to the effective date of a chapter 11 plan in the Bankruptcy Cases (the “**Effective Date**”), any such Consent has not been obtained, or if an attempted transfer or assignment thereof would be ineffective or a violation of applicable Law or Order of the Bankruptcy Court then such Contract shall be an Excluded Contract (each, an “**Holdback Contract**”) and shall not be transferred to Buyer at Closing and, Seller Parent shall, and cause the other Seller Parties to, and Buyer will, subject to Section 6.04, Section 6.05 and Section 6.10, use reasonable best efforts to enter into a mutually agreeable arrangement (an “**Interim Arrangement**”) under which, until the earlier of: (I) the six-month anniversary following Closing or (II) solely with respect to real property leases under which the Seller Party is a lessee, the earlier of two Business Days prior to the date that is 210 days after the Petition Date and two Business Days prior to the Plan Confirmation Date and (III) with respect to Transferred Contracts that are not real property leases under which the Seller Party is a lessee, two Business Days prior to the Effective Date, (such earlier date of (I), (II), or (III), as applicable, the “**Cut-Off Date**”), (a) Buyer will, in compliance with applicable Law or Order of the Bankruptcy Court, obtain the benefits and assume the obligations and bear the economic burdens associated with such Holdback Contract, solely to the extent such obligations or burdens are Assumed Liabilities, in accordance with the Stalking Horse Agreement, including, for example (and without limitation of other similar arrangements being employed instead and in place thereof), by subcontracting, sublicensing, or subleasing such Holdback Contract to Buyer or (b) Seller Parent will enforce for the benefit (and at the expense) of Buyer any and all of such Seller Party’s rights, claims, or benefits against a third party associated with such Holdback Contract and the Seller Parties would promptly pay to Buyer when received all monies or other economic benefit received by them under any such Holdback Contract, claim, right, or benefit (net of the Seller Parties’ reasonable and documented expenses incurred in connection with any assignment or other performance contemplated by Section 2.02, not to exceed the amounts payable to Buyer with respect to the applicable Holdback Contract); provided that until the Parties enter into any Interim Arrangement, the applicable Seller Parties shall comply with the immediately preceding clause.

Each Party shall bear their respective costs and expenses with respect to the negotiation of and entry into the Interim Arrangements. Notwithstanding the foregoing, Seller Parent shall, and shall cause the other Seller Parties to, use reasonable best efforts to obtain any such Consent affecting any such Holdback Contract prior to the Cut-Off Date, and if such Consent is obtained, such Holdback Contract shall be considered a Transferred Contract and transfer to the Buyer reasonably promptly thereafter. Any (x) amendment to or modification or waiver of any Contract or (y) any monetary consideration to any Person (other than Cure Costs or Excluded Liabilities) in connection with obtaining the Consents contemplated by Section 2.02 or any Holdback Contract shall require the prior written consent of Buyer.

Stalking Horse Agreement § 2.02.

Shared Customer Contracts	With respect to any Shared Customer Contract: (i) on or prior to the Designation Deadline, Buyer may elect, by written notice to Seller Parent (a “Shared Contract Designation Notice”), each Shared Customer Contract Buyer wishes to be assigned to it at the Closing and (ii) from and after the Designation Deadline until the Closing, Seller Parent and Buyer shall, and shall cause their respective Affiliates to, each use their respective commercially reasonable efforts to, and reasonably cooperate with each other, and the applicable counterparty, to, separate or amend any such Shared Customer Contract (or take such other action as may be reasonably necessary) in order to provide for a mutually acceptable allocation of the rights and obligations under such Shared Customer Contract in line with the allocation of Transferred Assets, Excluded Assets, Assumed Liabilities, and Excluded Liabilities between the Parties (each such Shared Customer Contract that is so separated or amended to apply only to the Business to the exclusion of the Excluded Business, a “Separated Business Contract”), and Seller Parent shall reasonably consult with (and in good faith consider the comments of) Buyer and its counsel regarding such Separated Business Contract (including the negotiation and terms thereof); <u>provided</u> that no such separation or amendment (or other arrangement) shall become effective prior to the Closing unless otherwise agreed by the Parties (in their respective sole discretion); <u>provided further</u>, that solely with respect to Undisclosed Contracts that are also Shared Customer Contracts discovered following the Designation Deadline, Buyer shall be permitted to designate such Undisclosed Contracts as a Shared Customer Contract or Separated Business Contract until the date that is 14 days following the date of discovery by Buyer (or notice thereof by the Seller Parties) (and for such Undisclosed Contracts, the “Designation Deadline” shall be such extended date). Any amendment to, modification to or waiver of a Shared Customer Contract or a Separated Business Contract that adversely affects Buyer or the Business shall be in form and substance reasonably acceptable to Buyer (any such Contract where Buyer’s consent is so required, but not yet obtained, a “Specified 6.10 Contract”). Neither Seller Parent, Buyer, nor any of their respective Affiliates shall be required to do any of the following: (A) separate, amend or modify or take any other action under <u>Section 6.10</u> with respect to any Shared Customer Contract for which a Shared Contract Designation Notice has not been timely delivered, (B) adversely modify, relinquish, narrow, or forbear any material right that constitutes an Excluded Asset, Transferred Asset, Excluded Liability or Assumed Liability, as applicable, to any Party, or (C) other than Cure Costs or Non-Recurring Credits, pay any monetary consideration to any Person for the purpose of separating or amending any such Shared Customer Contract (and any such other monetary consideration, to the extent not an Excluded Liability, shall be subject to Buyer’s prior written consent). With respect to any Shared Customer Contract that is separated or amended (and therefore becomes a Separated Business Contract) on or prior to the Closing: (i) all Cure Costs or Non-Recurring Credits (if any) that are agreed among the applicable parties with respect to such Contract shall be paid by Seller Parent on or before Closing; (ii) such Separated Business Contract shall be deemed effective as of immediately prior to the Effective Time; (iii) such Separated Business Contract shall be deemed a Transferred Contract for the purposes hereof and be automatically added to <u>Schedule 2.01(a)(iii)(D)</u>; and (iv) such Separated Business Contract shall provide Buyer equivalent, in all material respects, contract rights and obligations under the Separated Business Contract to those contract rights and obligations under such Shared Customer Contracts utilized by the applicable Seller Party in the conduct of the Business (including as to any pricing metrics). If any Shared Customer Contract for which a Shared Contract Designation Notice was timely delivered is not so separated or amended at or prior to the Closing Date (such Contract, for so long as it has not been separated and thus continues to be a Shared Customer Contract, a “Non-Separated Contract”), then, after the Closing until the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), to the extent permissible by Law and under the terms of the applicable Shared Customer Contract, Seller Parent shall (and shall cause the applicable Seller Party or its Affiliates to) (i) solely if Buyer elects, in its sole and absolute discretion, to have such Non-Separated Contract assigned in full to Buyer (or its designee), assign, transfer and convey such Non-Separated Contract (to

	the extent so assigned, transferred and conveyed to Buyer hereunder, a “Non-Separated Assumed Contract”), which shall be deemed a Transferred Contract for the purposes hereof and be automatically added to <u>Schedule 2.01(a)(iii)(D)</u> upon such proper assignment, transfer and conveyance, and thereafter Buyer shall use reasonable best efforts to enter into an Interim Arrangement either with the applicable Seller Parties and/or with any third parties holding interests in the Excluded Business party to such Non-Separated Assumed Contract to, subject to applicable Law or Order of the Bankruptcy Court, provide such Seller Parties or third-parties the benefits and pass along the economic burdens associated with such Non-Separated Assumed Contract, solely to the extent such obligations or burdens are obligations of the Excluded Business or of such Seller Party or third party prior to the Closing Date or (ii) solely if Buyer does not elect, in its sole and absolute discretion, to have such Non-Separated Contract assigned in full to Buyer (or its designee) pursuant to <u>Section 6.10(c)(i)</u>. (A) assume and perform the liabilities under such Shared Customer Contract, (B) hold in trust for the benefit of Buyer, and shall promptly forward to Buyer, all monies (net of applicable Taxes, if any, imposed by a Government Authority in connection with the receipt of such monies) and other benefits received pursuant to such Shared Customer Contract and (C) use commercially reasonable efforts to institute alternative arrangements intended to establish reasonable and lawful arrangements designed to provide the Buyer with all the rights, benefits and obligations under such Shared Customer Contract; <u>provided</u> that, notwithstanding the foregoing, (w) following the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), Seller Parent and the applicable Seller Parties shall not have any obligation to renew any Shared Customer Contract upon the expiration or termination thereof, (x) prior to the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), Seller Parent and the applicable Seller Party shall not extend the term or otherwise amend the terms of any Shared Customer Contract in a manner that would adversely affect Buyer, such Shared Customer Contract, the Transferred Assets or the Business upon obtaining a Separated Business Contract without Buyer’s prior written consent, (y) prior to the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), to the extent any such Shared Customer Contract contains an “evergreen” provision that automatically renews such Shared Customer Contract, the applicable Seller Parties shall be prohibited from terminating or canceling such Shared Customer Contract as permitted pursuant to the terms thereof without Buyer’s prior written consent and (z) other than Cure Costs or Non-Recurring Credits, neither Seller Parent nor the applicable Seller Parties shall have any obligation to make any material payments or offer or grant any concession or accommodation (financial or otherwise) or commence or participate in any Action in order to obtain any consents or approvals of third parties or effect the transfers or arrangements contemplated by <u>Section 6.10(c)</u>. For the avoidance of doubt, <u>Section 6.10</u> shall solely apply to Shared Customer Contracts, Separated Business Contracts, and Non-Separated Contracts. Stalking Horse Agreement § 6.10.
Tax Exemption	Notwithstanding anything to the contrary in the Stalking Horse Agreement, Buyer, on the one hand and Seller Parties, on the other hand, shall promptly pay and discharge 50% of any Transfer Tax imposed or arising with respect to the Transactions. The Party required by Law to file a Tax Return with respect to such Transfer Taxes shall, with the cooperation of the other Party, timely prepare and file such Tax Return; <u>provided</u> that Buyer shall bear and be responsible for the costs of preparing and filing such Tax Return. If the Seller Parties or any of their Affiliates are required to pay any Transfer Tax, Buyer shall within ten Business Days of receipt of evidence of payment reimburse the Seller Parties for any Transfer Taxes paid by the Seller Parties or such Affiliate in connection with the filing of the applicable Tax Return. Buyer and Seller Parent each agree to use commercially reasonable efforts to timely sign and deliver (or to cause their respective Affiliates to timely sign and deliver) such certificates or forms as

	may be necessary or appropriate and otherwise to cooperate to establish any available exemption from (or otherwise reduce) any Transfer Taxes. Stalking Horse Agreement § 9.01.
Record Retention	The books and records remaining with the Seller include: 1. all minute books (and other similar corporate records) and stock records; 2. any books and records primarily related to Excluded Assets; 3. any books and records or other materials of or in the possession of the Seller Parties that (I) any of the Seller Parties are required by Law or by Order of the Bankruptcy Court to retain or (II) any of the Seller Parties are prohibited by Law from delivering to Buyer; 4. any copies of any books and records that (I) any of the Seller Parties reasonably believes are necessary to enable the Seller Parties to prepare or file Tax Returns or (II) any Seller Party and its Affiliates retain pursuant to <u>Section 7.01(a)</u>; and 5. any books, records, files, or papers that are not Transferred Books and Records. Stalking Horse Agreement § 2.01(b)(xiii).
Sale of Avoidance Actions	All Causes of Action (including counterclaims) and defenses, including those arising in connection with the Bankruptcy Cases are transferred assets. Stalking Horse Agreement § 2.01(a)(xvi).
Provisions Providing Bid Protections to “Stalking Horse” or Initial Bidder	Seller Parent shall if, as, and when due in accordance with the terms hereof and the Bidding Procedures Order, (a) if, and only if, the Stalking Horse Agreement is validly terminated pursuant to <u>Section 11.01(c)</u>, <u>Section 11.01(f)</u> or <u>Section 11.01(k)</u>, pay (or cause to be paid) to Buyer a break-up fee in an amount equal to (i) \$8,550,000 (the “Break-Up Fee”) plus (as applicable) and (ii) the amount of the reasonable, out-of-pocket and documented expenses of Buyer incurred in connection with the Stalking Horse Agreement and the Transactions up to an aggregate amount of \$2,850,000 (such amount an “Expense Reimbursement”, and together with the Break-Up Fee (as applicable), the “Termination Payment”); or (b) if, and only if, the Stalking Horse Agreement is validly terminated pursuant to <u>Section 11.01(g)</u>, <u>Section 11.01(h)</u> or <u>Section 11.01(i)</u>, pay (or cause to be paid) the Expense Reimbursement. In either event, subject to the entry of the Bidding Procedures Order, the Termination Payment or the Expense Reimbursement, as applicable, shall be paid no later than the third Business Day following the date of consummation of an Alternative Transaction if, at or prior to such date, no material breach by Buyer of the Stalking Horse Agreement has occurred pursuant to which Seller Parent would be entitled to terminate the Stalking Horse Agreement pursuant to <u>Section 11.01(b)</u>. Stalking Horse Agreement § 8.01.
Parent Guarantee	Buyer Parent irrevocably and unconditionally guarantees the due and punctual performance Buyer’s obligation hereunder to (i) pay expenses expressly required to be borne by Buyer when due and payable pursuant to and in accordance with the Stalking Horse Agreement or make any other payment obligations of Buyer under the Stalking Horse Agreement or otherwise arising out of or relating to the Transactions (for which Buyer is responsible hereunder), including <u>Section 2.02</u>, <u>Section 3.01(c)(iii)</u>, <u>Section 6.04</u>, <u>Section 6.13(b)</u> and <u>Section 12.02</u> and (ii) pay monetary damages when due and payable pursuant to <u>Section 11.03</u>, subject to the other terms hereof (including <u>Section 12.05</u>) (clause (i) and clause (ii) collectively, the “Guaranteed

	Obligations”). The Guaranteed Obligations provided in <u>Section 12.10</u> are primary and original obligations of Buyer Parent. Seller Parent may enforce such Guaranteed Obligations directly against Buyer Parent without being required to first seek to enforce such Guaranteed Obligations against Buyer. Buyer Parent waives promptness, diligence, notice of acceptance of <u>Section 12.10</u> and of the guarantee, presentment, demand for payment, notice of nonperformance, default, dishonor and protest, notice of the incurrence of any such Guaranteed Obligation and all other notices of any kind, all defenses which may be available by virtue of any stay or moratorium Law now or hereafter in effect, any right to require the marshaling of assets of Seller Parent or any other Person interested in the Transactions, and all suretyship defenses (in each case, other than payment in full of the such Guaranteed Obligation subject to the terms hereof). Stalking Horse Agreement § 12.10.
Equity Commitment ¹³	Equity Commitment Letter confirms the irrevocable commitment of a parent fund of the Buyer, subject to certain terms and conditions, to make available or cause to be made available to the Buyer, at or immediately prior to the time Buyer is obligated under the Stalking Horse Agreement to effect the Closing, up to \$35,000,000. Seller Parent has third party beneficiary rights to seek enforcement of certain provisions of the Equity Commitment Letter, to cause Buyer to draw down on the Equity Financing, subject to the terms and conditions of such Equity Commitment Letter. Stalking Horse Agreement § 5.05(a).
Financing Commitments ¹⁴	Buyer’s debt financing sources commit to provide \$272,500,000 of incremental term loans under Buyer’s credit facility, subject to the pro forma net leverage of the Buyer not to exceed

¹³ The Stalking Horse Bidder and Bluebird are affiliates of Macquarie Group Limited. Additionally, certain OpCo Lenders, HoldCo Lenders, and DIP Lenders are managed or advised by an entity that is an affiliate of Macquarie Group Limited. More specifically (a) Bluebird is a portfolio company of a private equity fund managed by Macquarie Infrastructure Partners, Inc. (an SEC registered investment adviser) which is under the real assets business division of Macquarie Asset Management, (b) the Stalking Horse Bidder is an indirect subsidiary of Bluebird, and (c) certain OpCo Lenders, HoldCo Lenders, and DIP Lenders are clients of Macquarie Asset Management Credit Advisers US, LLC (“**MAMCA**”) which is an entity under the private credit business division of Macquarie Asset Management. There is an information barrier in place between the private credit division and the real assets division of Macquarie Asset Management.

Certain OpCo Lenders, HoldCo Lenders, and DIP Lenders managed or advised by the private credit division of Macquarie Asset Management are members of the steering committee for the OpCo Lenders, HoldCo Lenders, and DIP Lenders and are represented by MAMCA at the steering committee, and Paul Hastings LLP has been retained as the external legal counsel to the administrative agent and the lender group in connection with the sale of the Debtors. In turn, the relevant entities within the real assets business division of Macquarie Asset Management are being advised by Kirkland & Ellis LLP in connection with the sale of the Debtors.

¹⁴ The Stalking Horse Bidder’s financial advisor, TD Securities (USA) LLC (“**TD Securities**”) (or an affiliate or affiliates thereof), as well as certain potential lenders contacted by Macquarie in connection with a potential financing in support of the Stalking Horse Bid, are OpCo Lenders, DIP Lenders, and/or HoldCo Lenders (the “**Cross-Over Lenders**”). TD Securities and the Cross-Over Lenders each have separate internal teams that are managing their existing loans with the Company (the “**Existing Loans Teams**”) and are advising the Stalking Horse Bidder or handling matters related to a potential financing related to the Stalking Horse Bid (the “**Advisor / Financing Teams**”). TD Securities and the Cross-Over Lenders established information barriers between the respective Existing Loans Teams and Advisor / Financing Teams.

	5.5x and the satisfaction of conditions usual and customary for financings of this type, including: 1. the absence of any Material Adverse Effects (as defined in the Stalking Horse Agreement); 2. Buyer's receipt of \$25,000,000 of cash equity contributions from its investors; and 3. the absence of any payment or bankruptcy events of default under the Buyer's credit facility. Stalking Horse Agreement Ex. G.

Assumption and Assignment Procedures

23. The Assumption and Assignment Procedures set forth in the Bidding Procedures Order will, among other things, govern the Debtors' provision of notice to all Contract Counterparties of Cure Costs in the event the Successful Bidder elects for the Debtors to assume and assign the Transferred Contracts to it in connection with a Sale Transaction. The Debtors will file the Cure Notice with the Court and serve the Cure Notice on the Contract Counterparties on or before July 21, 2025, subject to adjustment depending on when the Sale Hearing and related deadlines are set.

24. Objections to the Cure Costs set forth on the Cure Notice (a "**Cure Objection**") and provision of adequate assurance of future performance (an "**Adequate Assurance Objection**") must: (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including what Cure Costs the objecting party believes are required, (iv) include any supporting documentation thereof, and (v) be filed with the Bankruptcy Court and served on the Objection Notice Parties (as defined in the Cure Notice) by the deadline provided in the applicable Cure Notice.

Notice Procedures

25. The Debtors request that the Court approve the form and manner of the service for the Sale Notice, the Cure Notice, and the Post-Auction Notice (collectively, the “**Notices**”), each attached to the proposed Bidding Procedures Order. The Debtors submit that the service of the Notices as set forth in the Bidding Procedures Order is proper and sufficient to provide notice of the Auction, the Sale Objection Deadline, the Cure Objection deadline, and the Sale Hearing to all known and unknown parties.

26. The Debtors propose that within three calendar days after the entry of the Bidding Procedures Order, the Debtors shall file on the docket and serve the Sale Notice, the Bidding Procedures Order, and the Bidding Procedures, by first-class mail, postage prepaid, provided that to the extent email addresses are available for any of the foregoing parties, such parties may be served by email, upon the following parties (collectively, the “**Sale Notice Parties**”):

- (a) the Office of the United States Trustee for the Southern District of Texas (Attn: Jayson Ruff, Esq.);
- (b) the holders of the 30 largest unsecured claims against the Debtors on a consolidated basis;
- (c) the Internal Revenue Service;
- (d) the United States Attorney’s Office for the Southern District of Texas;
- (e) Paul Hastings LLP, 200 Park Avenue, New York, New York 10166 (Attn: Jayme Goldstein, Esq., Jeremy Evans, Esq., and Charles Persons, Esq.) as counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders;
- (f) Kirkland & Ellis LLP, 601 Lexington Avenue, New York, New York 10022 (Attn: Christopher Marcus, Esq., Emily Geier, Esq., and Aaron Metviner, Esq.), as counsel to the Sponsor (as defined in the First Day Declaration);

- (g) Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, New York 10019-6022 (Attn: Michael Fingerhut, Esq.), as counsel to the HoldCo Agent;
- (h) all persons known by the Debtors to have expressed an interest to the Debtors in a transaction with respect to the Assets in whole or in part during the past 12 months;
- (i) all entities known by the Debtors to have asserted any lien, claim, encumbrance, or other interest in the Assets (for whom identifying information and addresses are available to the Debtors);
- (j) any Governmental Unit (as defined in section 101(27) of the Bankruptcy Code) known to have a claim in these chapter 11 cases;
- (k) the Office of the Attorney General in each state in which the Debtors operate;
- (l) the Office of the Secretary of State in each state in which the Debtors are organized;
- (m) the public utility commission in each state in which the Debtors have operations regulated by such public utility commission;
- (n) the Federal Trade Commission;
- (o) the Federal Communications Commission;
- (p) the National Telecommunications and Information Administration;
- (q) the United States Attorney General/Antitrust Division of the Department of Justice;
- (r) the United States Environmental Protection Agency; and
- (s) any party that has requested notice pursuant to Bankruptcy Rule 2002.

27. The Debtors further propose that within seven calendar days after the entry of the Bidding Procedures Order, the Debtors shall cause the Sale Notice to be published on the Claims Agent Website (as defined in the Bidding Procedures Order) and once in the national edition of the *New York Times*.

Requested Relief Should be Granted

A. Bidding Procedures Should be Approved

28. For the reasons set forth below, the Debtors believe the Bidding Procedures are reasonable and appropriate and should be approved as proposed. “When conducting an asset sale, the ultimate reasonability of the debtor, and the primary focus of the bankruptcy court, is the maximization of the value of the assets sold.” John J. Jerome & Robert D. Drain, *Bankruptcy Court Is Newest Arena for M&A Action*, N.Y.L.J., June 3, 1991.

29. Here, the Debtors submit that the Bidding Procedures are fair and appropriate under the circumstances, consistent with procedures routinely approved by courts, and in the best interest of the Debtors’ estates. The Debtors also submit that the Bidding Procedures demonstrate a sound exercise of the Debtors’ business judgment, as such procedures are designed to maximize the value to be received by the Debtors’ estates for the Assets.

30. The Bidding Procedures will provide the Debtors with an adequate opportunity to consider competing bids and select the highest and best offer for the Assets.

31. Moreover, an orderly and expeditious sale process is critical to preserve and realize the Debtors’ going-concern value and maximize recoveries for the Debtors’ stakeholders. In formulating the Bidding Procedures, the Debtors balanced the need to provide adequate and appropriate notice to parties in interest and potential bidders with the need to quickly and efficiently run a sale process in parallel with a solicitation process. The Bidding Procedures provide for the marketing of the Debtors’ business and for the consummation of a Sale Transaction.

B. Stalking Horse Bid Protections are Reasonable and Appropriate

32. The Bidding Procedures allow the Debtors to provide Stalking Horse Bid Protections to the Stalking Horse Bidder, such as the Termination Payment and the protections attendant to the Minimum Overbid. Bidding incentives such as these Stalking Horse Bid

Protections have become commonplace in connection with sales in chapter 11 cases. Moreover, approval of break-up fees as administrative expense claims as a form of bidder protections in connection with a sale has become a recognized practice in chapter 11 cases because it enables a debtor to ensure a sale to a contractually committed buyer at a price the debtor believes is fair, while providing the debtor with the potential of obtaining an enhanced recovery through an auction process.

33. The Debtors believe that granting the Stalking Horse Bid Protections to the Stalking Horse Bidder is fair and reasonable under the circumstances. Courts have acknowledged that the approval of break-up fees and expenses in connection with substantial sales in bankruptcy is warranted to compensate an unsuccessful acquirer whose initial offer served as the basis and catalyst for higher or better offers. *See ASARCO, Inc. v. Elliott Mgmt. (In re ASARCO, L.L.C.)*, 650 F.3d 593, 597–98, 601–03 & n.9 (5th Cir. 2011); *In re JW Res., Inc.*, 536 B.R. 193, 195–96 (Bankr. E.D. Ky. 2015); *In re Hupp Indus., Inc.*, 140 B.R. 191, 195 (Bankr. N.D. Ohio 1992). As listed in *Hupp Industries*, courts consider various factors in determining whether to authorize break-up fees, such as:

- whether the fee requested correlates with a maximization of value to the debtor's estate;
- whether the transaction in the negotiated agreement is an arm's-length transaction between the debtor's estate and the negotiating acquirer;
- whether the principal secured creditors are supportive of the concession;
- whether the subject break-up fee constitutes a fair and reasonable percentage of the proposed purchase price;
- the existence of available safeguards beneficial to the debtor's estate; and
- whether there exists a substantial adverse impact upon unsecured creditors, where such creditors are in opposition to the break-up fee.

In re Hupp Indus., 140 B.R. at 194–96.

34. To warrant court approval of such break-up fees and expenses, the Fifth Circuit in *ASARCO* required a showing that the requested fees and expenses must be supported by a sound business justification. *In re ASARCO*, 650 F.3d at 602–03 (favoring business judgment standard governing use of assets outside of the ordinary course of business, rather than the standard for administrative expenses, in assessing propriety of fees and expenses incurred by bidders).

35. Here, the Stalking Horse Bid Protections, if provided, will satisfy the foregoing tests because they will be: (i) actual and necessary costs and expenses of preserving the Debtors' estates within the meaning of sections 503(b) and 507(a)(2) of the Bankruptcy Code; (ii) commensurate to the real and substantial benefit conferred upon the Debtors' estates by the Stalking Horse Bidder; (iii) reasonable and appropriate, in light of the size and nature of the proposed Sale Transaction and comparable transactions, to the commitments that have been made and the efforts that have been, and will be expended, by the Stalking Horse Bidder;¹⁵ (iv) necessary to induce the Stalking Horse Bidder to continue to pursue the Sale Transaction and to continue to be bound by the Stalking Horse Agreement; and (v) subject to all parties-in-interests' rights to object and be heard with respect to approval of such Stalking Horse Bid Protections. Indeed, the Stalking Horse Bid Protections will enable the Debtors to secure an adequate floor price for the Assets, thereby ensuring that competing bids will be materially higher or otherwise better than the

¹⁵ The break-up fee and expense reimbursement provided for in Stalking Horse Bid Protections is well within a reasonable range of such protections previously approved by this Court. *See, e.g., In re Steward Health Care System, LLC*, No. 24-90213 (CML) (Bankr. S.D. Tex. Aug. 22, 2024) (Docket No. 2141) (authorizing a break-up fee of approximately 3% of the purchase price, plus an expense reimbursement of up to approximately 1.5% of the purchase price); *In re Basic Energy Servs., Inc.*, No. 21-90002 (DRJ) (Bankr. S.D. Tex. Aug. 17, 2021) (Docket No. 179) (approving break-up fees between 2.5% and 3% of the purchase price plus expense reimbursements between 2% and 2.5% of the purchase price across multiple transactions); *In re Chesapeake Energy Corp.*, No. 20-33233 (DRJ) (Bankr. S.D. Tex. Oct. 6, 2020) (Docket No. 1305) (authorizing a break-up fee up to 2% of the proposed purchase price plus an expense reimbursement up to 1% of the proposed purchase price); *In re McDermott Int'l, Inc.*, No. 20-30336 (DRJ) (Bankr. S.D. Tex. Feb. 24, 2020) (Docket No. 476) (authorizing a break-up fee of approximately 3% of the purchase price plus an expense reimbursement of approximately 1% of the purchase price).

bids reflected in any Stalking Horse Agreement—a clear benefit to the Debtors’ estates. Moreover, it is unlikely any Stalking Horse Bidder would be willing to agree to act as stalking horse bidder without being granted the Stalking Horse Bid Protections. Without such protections, the Debtors might lose the opportunity to obtain the highest and best offer for the Assets and would certainly lose the downside protection that will be afforded by the existence of the Stalking Horse Bidder.

36. The Stalking Horse Bidder has expended, and will continue to expend, considerable time, money, and energy in connection with the Sale Transaction. In particular, the Stalking Horse Agreement is the culmination of a marketing effort and part of a process undertaken by the Debtors and the Debtors’ professionals to identify and negotiate a transaction that the Debtors believe to be the highest and best proposal for an acquisition of the Assets. The Debtors believe that granting the Stalking Horse Bid Protections requested herein will maximize the value realized for the benefit of the Debtors’ estates, their creditors, and other parties-in-interest.

37. Finally, payment of the Stalking Horse Bid Protections in the context of a sale to another purchaser that outbids a Stalking Horse Bidder will not diminish the Debtors’ estates to the extent they become payable, as the Bidding Procedures require that any competing bid must exceed a Stalking Horse Bid by an amount in excess of the break-up fee and expense reimbursement.

38. For the foregoing reasons, the Debtors submit that the Stalking Horse Bid Protections reflect a sound business purpose, are fair and appropriate under the circumstances, and should be approved.

C. Assumption and Assignment of Transferred Contracts Should be Approved

39. Section 365(a) of the Bankruptcy Code provides that a debtor in possession “subject to the court’s approval, may assume or reject any executory contract or unexpired lease of the debtor.” 11 U.S.C. § 365(a). Upon finding that a debtor has exercised its

sound business judgment in determining to assume an executory contract or unexpired lease, courts will approve the assumption under section 365(a) of the Bankruptcy Code. *Mirant Corp. v. Potomac Elec. Power Co. (In re Mirant Corp.)*, 378 F.3d 511, 524–25 & n.5 (5th Cir. 2004); *In re Gucci*, 193 B.R. 411 (S.D.N.Y. 1996); *In re Pisces Energy, LLC*, No. 09-36591H5-11, 2009 WL 7227880, *6 (Bankr. S.D. Tex. Dec. 21, 2009). Under the business judgment test, a court should approve a debtor’s proposed assumption of executory contracts if such assumption will benefit the estate. *In re Pisces Energy*, 2009 WL 7227880, at *6; *In re Gunter Hotel Assocs.*, 96 B.R. 696, 698 (Bankr. W.D. Tex. 1998); *In re Food City, Inc.*, 94 B.R. 91, 93–94 (Bankr. W.D. Tex. 1988). Any more exacting scrutiny would slow the administration of a debtor’s estates, increase costs, interfere with the Bankruptcy Code’s provision for private control of administration of the estate, and threaten this Court’s ability to control a case impartially. *See Richmond Leasing v. Capital Bank, N.A.*, 762 F.2d 1303, 1311 (5th Cir. 1985). Moreover, pursuant to section 365(b)(1) of the Bankruptcy Code, for a debtor to assume an executory contract, it must “cure, or provide adequate assurance that the debtor will promptly cure,” any default, including compensation for any “actual pecuniary loss” relating to such default. 11 U.S.C. § 365(b)(1).

40. The assumption of the Transferred Contracts in connection with a Sale Transaction is an exercise of the Debtors’ sound business judgment because the Transferred Contracts are necessary to operate the Debtors’ business and, as such, are essential to obtaining the highest or otherwise best offer for the Debtors’ business. Moreover, the Transferred Contracts will be assumed and assigned in accordance with the Assumption and Assignment Procedures approved by the Court pursuant to the Bidding Procedures Order, which will be reviewed by the Debtors’ key stakeholders. Accordingly, the Debtors’ assumption of the Transferred Contracts is an exercise of sound business judgment and should be approved.

41. The consummation of a Sale Transaction, which will involve the assignment of the Transferred Contracts, will be contingent upon the Debtors' compliance with the applicable requirements of section 365 of the Bankruptcy Code. Section 365(b)(1) of the Bankruptcy Code requires that any outstanding defaults under the Transferred Contracts must be cured or that adequate assurance be provided that such defaults will be promptly cured. As set forth above, the Debtors propose to file with the Court and serve on each Contract Counterparty, the Cure Notice indicating the Debtors' calculation of the Cure Cost for each such contract. The Contract Counterparties will have the opportunity to file objections to the proposed assumption and assignment of the Transferred Contracts to the Successful Bidder, including the proposed Cure Costs.

42. Pursuant to section 365(f)(2) of the Bankruptcy Code, a debtor may assign an executory contract or unexpired lease of nonresidential real property if "adequate assurance of future performance by the assignee of such contract or lease is provided." 11 U.S.C. § 365(f)(2)(B). The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction" *In re PRK Enters., Inc.*, 235 B.R. 597, 603 (Bankr. E.D. Tex. 1999) (internal quotations omitted); *see also Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.)*, 103 B.R. 524, 538 (Bankr. D.N.J. 1988); *In re Natco Indus., Inc.*, 54 B.R. 436, 440 (Bankr. S.D.N.Y. 1985) (adequate assurance of future performance does not mean absolute assurance that the debtor will thrive and pay rent). Among other things, adequate assurance may be given by demonstrating the assignee's financial health and experience in managing the type of enterprise or property assigned. *See In re PRK Enters.*, 235 B.R. at 603 ("The financial evidence presented by [assignee] demonstrates the likelihood that it has the financial capacity to perform its future obligations under

the lease agreements and that its principal officers are serious in their commitment to rehabilitate this corporation.”); *In re Bygaph, Inc.*, 56 B.R. 596, 605–06 (Bankr. S.D.N.Y. 1986) (adequate assurance of future performance is present when prospective assignee of lease from the debtor has financial resources and has expressed willingness to devote sufficient funding to the business in order to give it strong likelihood of succeeding).

43. As set forth in the Bidding Procedures, for a bid to qualify as a “Qualified Bid,” a Potential Bidder must provide a list of Transferred Contracts of which it requests assignment and information regarding its ability (and the ability of its designated assignee, if applicable) to perform under such Transferred Contracts (the “**Adequate Assurance Information**”). The Debtors will provide Adequate Assurance Information to all counterparties to the Transferred Contracts and counterparties will have an opportunity to file an Adequate Assurance Objection in advance of the Sale Hearing. Based on the foregoing, the Debtors’ assumption and assignment of the Transferred Contracts satisfy the requirements under section 365 of the Bankruptcy Code and should be approved.

44. In addition, to facilitate the assumption and assignment of the Transferred Contracts, the Debtors further request that the Court find that all anti-assignment provisions in the Transferred Contracts, whether such provisions expressly prohibit or have the effect of restricting or limiting assignment of such contract or lease, to be unenforceable under section 365(f) of the Bankruptcy Code.¹⁶

¹⁶ Section 365(f)(1) provides in part that, “notwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law, that prohibits, restricts, or conditions the assignment of such contract or lease, the trustee may assign such contract or lease[.]” 11 U.S.C. § 365(f)(1). Section 365(f)(3) further provides that, “[n]otwithstanding a provision in an executory contract or unexpired lease of the debtor, or in applicable law that terminates or modifies, or permits a party other than the debtor to terminate or modify, such contract or lease or a right or obligation under such contract or lease on account of an assignment of such contract or lease, such contract, lease, right, or obligation may not be terminated or modified under such provision because of the assumption or assignment of such contract or lease by the trustee.” 11 U.S.C. § 365(f)(3).

Notice

Notice of this Motion will be served on any party entitled to notice pursuant to Bankruptcy Rule 2002 and any other party entitled to notice pursuant to Bankruptcy Local Rule 9013-1(d).

No Previous Request

45. No previous request for the relief sought herein has been made by the Debtors to this or any other court.

WHEREFORE the Debtors respectfully request entry of the Bidding Procedures Order granting the relief requested herein and such other and further relief as the Court may deem just and appropriate.

Dated: May 28, 2025
Houston, Texas

/s/ Clifford W. Carlson

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*Proposed Attorneys for Debtors
and Debtors in Possession*

Certificate of Service

I hereby certify that on May 28, 2025, a true and correct copy of the foregoing document was served by the Electronic Case Filing System for the United States Bankruptcy Court for the Southern District of Texas.

/s/ Clifford W. Carlson

Clifford W. Carlson

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	
	§	Case No. 25-90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	Re: Docket No. _____

**ORDER ESTABLISHING BIDDING
PROCEDURES RELATING TO SALE OF DEBTORS' ASSETS**

Upon the motion, dated May 28, 2025 (Docket No. [●]) (the “**Motion**”),² of Everstream Solutions LLC and its debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases, pursuant to sections 105(a), 363, 365, 503, and 507 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2002-1 and 9013-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Local Rules**”), for entry of an order (i) approving the bidding procedures, substantially in the form attached hereto as **Exhibit 1** (the “**Bidding Procedures**”), in connection with the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business and the MO Divested

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midcol LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, or the Stalking Horse Agreement (each, as defined herein), as applicable.

Business (each, as defined in the Stalking Horse Agreement) (the “**Assets**”), (ii) authorizing the Debtors to designate Bluebird MidWest, LLC, an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator, as the stalking horse bidder (the “**Stalking Horse Bidder**”), (iii) approving the Stalking Horse Bid Protections (as defined in the Motion) proposed to be granted in accordance with the terms and conditions of the Bidding Procedures and the Stalking Horse Agreement, (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling a hearing (the “**Sale Hearing**”) with respect to the approval of a proposed sale transaction to the Successful Bidder or the Back-Up Bidder (each, as defined herein) pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”), (v) authorizing and approving the form and manner of notice of the (a) Debtors’ entry into that certain *Asset Purchase Agreement*, dated as of May 22, 2025 (together with the exhibits thereto, as may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “**Stalking Horse Agreement**”), attached hereto as **Exhibit 2**, which provides for the sale of substantially all of the Assets, other than the PA Business (as defined in the Stalking Horse Agreement) (the “**Stalking Horse Assets**”) to the Stalking Horse Bidder (the “**Stalking Horse Bid**”), (b) Auction, and (c) Sale Hearing, substantially in the form attached hereto as **Exhibit 3** (the “**Sale Notice**”), (vi) approving the procedures set forth herein (the “**Assumption and Assignment Procedures**”) for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases (collectively, the “**Transferred Contracts**”) to the Successful Bidder and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”), (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the

Successful Bidder and of the Debtors' calculation of the Cure Costs, substantially in the form attached hereto as **Exhibit 4** (the "**Cure Notice**"), (viii) authorizing and approving the form of notice substantially attached in the form attached hereto as **Exhibit 5** (the "**Post-Auction Notice**"), and (ix) granting related relief; all as more fully described in the Motion; and this Court having jurisdiction and authority to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Sale Notice Parties (as defined in the Motion), and such notice having been good and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the *Declaration of Justin Schmaltz in Support of Debtors' Chapter 11 Petitions and First Day Relief* (Docket No. 5) (the "**First Day Declaration**"), the Henry Declaration (as defined in the Motion), and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion establishes just cause for the relief granted herein; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. Jurisdiction and Venue. This Court has jurisdiction and authority to hear and determine the Motion and to grant the relief requested herein pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Statutory and Legal Predicates. The statutory and legal predicates for the relief requested in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and Bankruptcy Local Rules 2002-1 and 9013-1.

C. Prepetition Marketing Process. The Debtors and their advisors, including Bank Street Group and PJT Partners, engaged in a robust and extensive sale process before and after the commencement of these chapter 11 cases, over a period of over eight months, to solicit and develop the highest or best offer for the Assets.

D. Bidding Procedures. The Debtors have articulated good and sufficient business reasons for the Court to approve the Bidding Procedures. The Bidding Procedures are fair, reasonable, and appropriate under the circumstances and designed to maximize the recovery on, and realizable value of, the Assets, as determined by the Debtors' sound business judgment. The Bidding Procedures were negotiated in good faith and at arms' length and are reasonably designed to promote a competitive and robust bidding process to generate the greatest level of interest in the Debtors' business resulting in the highest or otherwise best offer.

E. Designation of Stalking Horse Bid. The Stalking Horse Bid, as reflected in the Stalking Horse Agreement, represents the highest or best offer the Debtors received during its

³ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

prepetition sale process to purchase the Stalking Horse Assets. The Stalking Horse Agreement provides the Debtors with the opportunity to sell the Stalking Horse Assets to preserve and realize their going-concern value. Without the Stalking Horse Bid, the Debtors would likely realize a lower price for the Stalking Horse Assets. Accordingly, the contributions of the Stalking Horse Bidder to the process have provided a substantial benefit to the Debtors, their estates, and creditors in these chapter 11 cases. The Stalking Horse Bid will enable the Debtors to continue their operations, preserve jobs, minimize disruption to the Debtors' business, and secure a fair and adequate baseline price for the Assets at the Auction (if any), and, accordingly, will provide a clear benefit to the Debtors' estates, their creditors, and all other parties in interest.

F. Designation of Stalking Horse Bidder. The Stalking Horse Bidder shall act as the "stalking-horse" bidder pursuant to the Stalking Horse Agreement, and the Stalking Horse Bid shall be subject to higher or better offers in accordance with the Bidding Procedures. The Stalking Horse Bidder is not an "insider" or "affiliate" of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders exists between the Stalking Horse Bidder and the Debtors. Pursuit of the Stalking Horse Bidder as a "stalking-horse" bidder and its Stalking Horse Bid as a "stalking-horse" purchase agreement is in the best interests of the Debtors and the Debtors' estates and creditors, and it reflects a sound exercise of the Debtors' business judgment.

G. Stalking Horse Bid Protections. The Stalking Horse Bid Protections (i) have been negotiated by the Stalking Horse Bidder and the Debtors and their respective advisors at arm's length and in good faith and (ii) are necessary to ensure that the Stalking Horse Bidder will continue to pursue its Stalking Horse Agreement and the Sale Transaction contemplated thereby. The Termination Payment (as defined in the Stalking Horse Agreement), to the extent

payable under the Stalking Horse Agreement, (a)(1) is an actual and necessary cost and expense of preserving the Debtors' estates within the meaning of section 503(b) of the Bankruptcy Code and (2) shall be treated as an allowed administrative expense claim against the Debtors' estates pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code, (b) is commensurate to the real and material benefits conferred upon the Debtors' estates by the Stalking Horse Bidder, and (c) is fair, reasonable, and appropriate, including in light of the size and nature of the Sale Transaction and the efforts that have been and will be expended by the Stalking Horse Bidder. The Stalking Horse Bid Protections were a material inducement for, and condition to, the Stalking Horse Bidder's execution of the Stalking Horse Agreement. Unless it is assured that the Stalking Horse Bid Protections will be available, the Stalking Horse Bidder is unwilling to remain obligated to consummate the Sale Transaction or otherwise be bound under the Stalking Horse Agreement (including the obligations to maintain its committed offer while such offer is subject to higher or better offers as contemplated by the Bidding Procedures).

H. Assumption and Assignment Provisions. The Debtors have articulated good and sufficient business reasons for the Court to approve the Assumption and Assignment Procedures and such Assumption and Assignment Procedures, including the form of the Sale Notice attached hereto as Exhibit 3 and the form of the Cure Notice attached hereto as Exhibit 4, are fair, reasonable, and appropriate. The Assumption and Assignment Procedures provide an adequate opportunity for all Contract Counterparties to raise any objections to the proposed assumption and assignment of any Transferred Contract or the proposed Cure Costs. The Assumption and Assignment Procedures comply with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

I. Sale Notice. The Sale Notice, the form of which is attached hereto as **Exhibit 3**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, the Sale Hearing, and the Sale Transaction (including the sale of the Stalking Horse Assets as set forth under the Stalking Horse Bid) free and clear of any liens, claims, encumbrances, or interests pursuant to section 363(f) of the Bankruptcy Code, and any and all objection deadlines related thereto, and no other or further notice shall be required for the Motion, the Sale Transaction, or the potential assumption and assignment of the Transferred Contracts except as expressly required herein.

J. Cure Notice. The Cure Notice, the form of which is attached hereto as **Exhibit 4**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Assumption and Assignment Procedures, as well as any and all objection deadlines related thereto, and no other or further notice shall be required for the Motion and the procedures described therein, except as expressly required herein.

K. Post-Auction Notice. The Post-Auction Notice, substantially in the form attached hereto as **Exhibit 5**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Successful Bid and Back-Up Bid (each, as defined herein), and no other further notice is required.

L. Notice. Good and sufficient notice of the relief sought in the Motion has been provided under the circumstances, and no other or further notice is required, except as set forth in the Bidding Procedures and the Assumption and Assignment Procedures. A reasonable opportunity to object and be heard regarding the relief granted herein has been afforded to all

parties in interest, including those persons and entities entitled to notice pursuant to Bankruptcy Rule 2002.

M. The Debtors have articulated good and sufficient business reasons for the Court to approve (i) the Bidding Procedures, (ii) the Stalking Horse Bid Protections, (iii) the Assumption and Assignment Procedures, and (iv) the form and manner of notice of the Auction and the Sale Hearing for the Sale Transaction.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Process Timeline

1. The Debtors are authorized to take any and all actions reasonably necessary and appropriate to implement the Bidding Procedures in accordance with the following timeline:

Key Event	Date or Deadline⁴
Milestone for entry of Bidding Procedures Order	June 27, 2025
Deadline to submit Bids	July 14, 2025 at 4:00 p.m. (prevailing Central Time)
Qualified Bid Deadline: Debtors to notify bidders of status as Qualified Bidders and to file and publish (on Claims Agent Website) notice of Qualified Bids	July 16, 2025 at 4:00 p.m. (prevailing Central Time)
Auction to be held if the Debtors receive more than one Qualified Bid, to be conducted at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to Qualified Bidders	July 17, 2025, at 9:00 a.m. (prevailing Central Time)
Deadline to file notice and identities of Successful Bid(s) and Back-Up Bid(s)	July 21, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file proposed form of Sale Order	[July 21], 2025 at 4:00 p.m. (prevailing Central Time)

⁴ **[Note to Draft]:** Certain dates may be adjusted depending on when the Sale Hearing occurs.]

Key Event	Date or Deadline
Deadline to file objections to Sale Transaction	[July 25], 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to cure costs and/or adequate assurance of future performance	[July 25], 2025 at 4:00 p.m. (prevailing Central Time)
Sale Hearing	[August 1], 2025

2. The failure to timely file an objection in accordance with this Order shall forever bar the assertion of any objection to the relief contemplated by the Motion and/or consummation of a Sale Transaction, including the assumption and assignment of Transferred Contracts to the Successful Bidder pursuant to a purchase agreement, and shall be deemed to constitute any such party's consent to entry of the applicable order and consummation of the applicable Sale Transaction and all other transactions related thereto.

3. The Debtors reserve the right, and are authorized to, modify the above timeline and Bidding Procedures, in each case, in accordance with the Bidding Procedures.

Stalking Horse Bid Protections

4. The Stalking Horse Bid shall be subject to higher or better Qualified Bids (as defined in the Bidding Procedures), in accordance with the terms and procedures of the Bidding Procedures.

5. The Stalking Horse Bid Protections are approved in their entirety. The Termination Payment shall be payable in accordance with, and subject to the terms of, the Stalking Horse Agreement.

6. If the Termination Payment becomes due and owing pursuant to the terms of the Stalking Horse Agreement, the Debtors are authorized to pay the Termination Payment by wire transfer of immediately available funds, directly using proceeds from the Purchase Price from

a Successful Bidder or otherwise, in accordance with the Stalking Horse Agreement and without further order of the Court. Upon receiving the Purchase Price from a Successful Bidder (other than the Stalking Horse Bidder), the Debtors shall set aside an amount in cash for payment of the Termination Payment, pursuant to the terms of the Stalking Horse Agreement.

7. The Termination Payment, to the extent payable under the Stalking Horse Agreement, shall constitute an allowed administrative expense claim against the Debtors' estates pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code.

Bidding Procedures

8. The Bidding Procedures, attached hereto as **Exhibit 1**, are hereby approved in their entirety, are incorporated herein by reference, and shall govern the bids and proceedings related to the sale of the Assets and the Auction. The failure to specifically include or reference any particular provision of the Bidding Procedures in the Motion or this Order shall not diminish or otherwise impair the effectiveness of such procedures, it being the Court's intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures.

9. The Bidding Procedures shall apply with respect to any bids for, and the Auction and sale of, all or any portion of the Assets, including the Stalking Horse Assets set forth in the Stalking Horse Agreement. The procedures and requirements set forth in the Bidding Procedures, including those associated with submitting a Qualified Bid, are fair, reasonable, appropriate, and designed to maximize recoveries for the benefit of the Debtors' estates, creditors, and other parties in interest. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures in accordance with the terms of this Order and the Bidding Procedures.

10. The deadline for submitting Bids (the “**Bid Deadline**”) is **July 14, 2025, at 4:00 p.m. (prevailing Central Time)**; provided that the Debtors shall have the right, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders (each, as defined in the Bidding Procedures), to extend the Bid Deadline for any reason whatsoever, in their reasonable business judgment, for all or certain Potential Bidders (as defined in the Bidding Procedures), without further order of the Court, subject to providing prior notice to the Stalking Horse Bidder, the Consultation Parties (as defined in the Bidding Procedures), and all Potential Bidders.⁵ Any party that does not submit a Qualified Bid by the Bid Deadline in accordance with the Bidding Procedures will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction.

11. The Stalking Horse Bidder is a Qualified Bidder (as defined herein) and the Stalking Horse Bid, as set forth in the Stalking Horse Agreement (including as may be increased at the Auction (if any)), is a Qualified Bid, as set forth in the Bidding Procedures.

12. All Potential Bidders submitting bids determined by the Debtors to be Qualified Bids in accordance with the Bidding Procedures are deemed to have submitted to the exclusive jurisdiction and authority of this Court with respect to all matters related to the Auction and the terms and conditions of the sale or transfer of the Assets.

13. To qualify as a Qualified Bid, each such bid must be accompanied by information supporting the Potential Bidder’s ability to comply with the requirements of adequate assurance of future performance under section 365(f)(2)(B) of the Bankruptcy Code, including the bidder’s financial wherewithal and willingness to perform under any contracts that will be assumed

⁵ For the avoidance of doubt, the Debtors’ ability to extend deadlines as provided herein shall not alter the Stalking Horse Bidder’s rights under the Stalking Horse Agreement.

and assigned to such bidder. In addition to the other requirements of a Qualified Bid as set forth in the Bidding Procedures, each such bid must be accompanied by a written statement confirming that (i) the bidder has not engaged in any collusion with respect to the submission of any bid, the bidding, or the Auction and (ii) its Qualified Bid is a good faith bona fide offer that it agrees to consummate the transactions contemplated by its Qualified Bid if selected as the Successful Bidder.

14. Subject to the Bidding Procedures and any applicable consent or consultation rights provided therein, this Order, and the rights of the Stalking Horse Bidder under the Stalking Horse Agreement, the Debtors shall have the right as they may reasonably determine to be in the best interests of their estates to carry out the Bidding Procedures, including to: (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best purchase price and/or terms received prior to the Auction; (iv) determine which Qualified Bid(s) is the Successful Bid; (v) if the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, designate a Back-Up Bidder as the Successful Bidder and such bidder's Back-Up Bid as the Successful Bid upon the filing of the Back-Up Bid Implementation Notice (as defined herein) with the Court; (vi) reject any bid (other than the Stalking Horse Bid) that is (a) inadequate or insufficient, (b) not in conformity with the requirements of this Order, the Bidding Procedures, or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (vii) adjourn and/or cancel the Sale Hearing in open court and/or the Auction without further notice or as provided in the Bidding Procedures; (viii) modify the Bidding Procedures consistent with their fiduciary duties and the Bankruptcy Code, and as set forth in the Bidding Procedures; and (ix) withdraw the Motion at any time with or without prejudice.

15. The Debtors shall have the right, in their business judgment, to modify the Bidding Procedures, including (i) waive terms and conditions with respect to any Potential Bidder or Qualified Bid, (ii) extend the deadlines set forth in the Bidding Procedures, (iii) announce at the Auction modified or additional procedures for conducting the Auction, and (iv) provide reasonable accommodations to Potential Bidders with respect to such terms, conditions, and deadlines of the bidding and Auction process to promote further bids by such bidders on any Assets, in each case, to the extent not materially inconsistent with the Bidding Procedures, including any applicable consent or consultation rights provided therein, and this Order. Except as provided in the Stalking Horse Agreement, nothing in this Order or the Bidding Procedures shall obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

16. The Debtors shall identify those bids that qualify as Qualified Bids (each bidder that submits such a Qualified Bid being a “**Qualified Bidder**”) by **July 16, 2025, at 4:00 p.m. (prevailing Central Time)**. If one or more Qualified Bid is timely received, other than the Stalking Horse Bid, with respect to the same or overlapping Assets or group of Assets, the Auction shall be conducted at the offices of Weil, Gotshal & Manges LLP; 767 Fifth Avenue, New York, New York 10153 and/or virtually on **July 17, 2025, at 9:00 a.m. (prevailing Central Time)**, or at such other date, time, and location as shall be timely communicated to all parties entitled to attend the Auction.

17. Only Qualified Bidders will be eligible to participate in the Auction, subject to such limitations as the Debtors may impose in good faith. In addition, professionals and/or other representatives of the Debtors and the Consultation Parties shall be permitted to attend and observe the Auction. The Debtors may, in their sole discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany

Qualified Bidders or other parties at the Auction. The proceedings of the Auction shall be transcribed or videotaped, at the Debtors' option.

18. Absent further order of the Court, no Qualified Bidder (other than the Stalking Horse Bidder solely as provided herein) shall be entitled to any expense reimbursement, break-up fee, termination fee, or other similar fee or payment in connection with any Sale Transaction, and by submitting a bid, such Qualified Bidder is deemed to have waived its right to request or to file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of section 503(b) of the Bankruptcy Code or otherwise.

19. If the Stalking Horse Bid, as reflected in the Stalking Horse Agreement, is the only Qualified Bid in respect of the Assets that is received by the Debtors by the Bid Deadline, the Debtors shall not conduct an Auction for the Assets, and the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed the Successful Bid with respect to the Assets. In such circumstances, the Debtors shall notify the Court and publish such notice on the Claims Agent Website⁶ prior to the date on which the Auction was scheduled to occur.

20. The Debtors may, in the exercise of their business judgment, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders (as defined in the Bidding Procedures)) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders (as defined in the Bidding Procedures)), identify the highest or otherwise best Qualified Bid(s) as the successful bid(s) (a “**Successful Bid**” and, the bidder(s) submitting such bid(s), a “**Successful Bidder**”). The

⁶ The Debtors' claims and noticing agent in these chapter 11 cases, Stretto, Inc., maintains a website located at <http://cases.stretto.com/everstream> (the “**Claims Agent Website**”).

Debtors may also identify which Qualified Bid(s) constitute the second highest or otherwise best bid, and deem such second highest bid a back-up bid (the “**Back-Up Bid**” and, the bidder submitting such bid, the “**Back-Up Bidder**”).

21. By July 21, 2025, at 4:00 p.m. (prevailing Central Time), the Debtors shall file with the Court and post on the Claims Agent Website a notice of the Successful Bid, Successful Bidder, Back-Up Bid, and Back-Up Bidder. For the avoidance of doubt, subject to Paragraph 22 of this Order, nothing in this paragraph shall alter the requirement that, if the Debtors, in consultation with the Consultation Parties, determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed the Successful Bid.

22. Notwithstanding anything in this Order to the contrary, whether or not an Auction is held, if the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), designate the Back-Up Bidder as the Successful Bidder and such Back-Up Bidder’s Back-Up Bid as the Successful Bid by filing a notice to such effect with the Court in these chapter 11 cases (the “**Back-Up Bid Implementation Notice**”) and serving such notice on the Sale Notice Parties, Contract Counterparties, and all known creditors and interest holders identified on the Debtors’ creditor matrix, and, if so designated, the Debtors shall seek to consummate the Sale Transaction pursuant to the Back-Up Bid. As soon as practicable after the Debtors file the Back-Up Bid Implementation Notice, the Debtors may file a motion with the Court seeking approval of the

Assumption and Assignment Procedures for unexpired leases and executory contracts in connection with such Back-Up Bid, unless the Stalking Horse Bid is deemed the Back-Up Bid.

Sale Hearing and Sale Objection Deadline

23. The Debtors shall file with this Court and serve by e-mail, mail, facsimile, or overnight delivery on the Sale Notice Parties a proposed form of order authorizing and approving, among other things, the Sale Transaction in which all or some of the Assets of the Debtors or the Debtors' business will be sold to the applicable Successful Bidder or the Back-Up Bidder (the "**Sale Order**") no later than **[July 21], 2025, at 4:00 p.m. (prevailing Central Time)**. The Debtors will seek the entry of the Sale Order at the Sale Hearing before the Court to be held on **[August 1], 2025**. The Sale Hearing may be adjourned by this Court or the Debtors from time to time without further notice other than by announcement in open court or through the filing of a notice or other document on this Court's docket.

24. The Successful Bidder (which may be the Stalking Horse Bidder or, if so designated pursuant to this Order, the Back-Up Bidder) shall appear at the Sale Hearing and be prepared, if necessary, to have a representative(s) testify in support of the Successful Bid and the Successful Bidder's ability to close in a timely manner and provide adequate assurance of its future performance under any and all executory contracts and unexpired leases to be assumed and assigned as part of the proposed Sale Transaction.

25. Objections to the Sale Transaction (each, a "**Sale Objection**") must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (iii) state with particularity the basis and nature of any objection, and provide proposed language that, if accepted and incorporated by the Debtors, would obviate such objection; (iv) conform to the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local

Rules; (v) be filed with the Bankruptcy Court; and (vi) be served upon the following parties by the Sale Objection Deadline: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Michael Fingerhut, Esq. (michael.fingerhut@nortonrosefulbright.com)); (f) counsel to any statutory committee appointed in these chapter 11 cases; (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza,

Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”) by **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Sale Objection Deadline**”). All Sale Objections will be heard by this Court at the Sale Hearing.

26. The failure of any objecting person or entity to timely file and serve a Sale Objection on the Objection Notice Parties shall be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Motion, or to the consummation and performance of the Sale Transaction contemplated by the Stalking Horse Bid or, if the Auction is held, any purchase agreement with the Successful Bidder or the Back-Up Bidder, including the transfer of the Assets to the Successful Bidder or the Back-Up Bidder, free and clear of all claims and interests pursuant to section 363(f) of the Bankruptcy Code. Failure to object shall constitute consent for the purposes of section 363(f) of the Bankruptcy Code.

Notice of Sale Transaction

27. The Sale Notice, substantially in the form attached hereto as **Exhibit 3**, is approved, and no other or further notice of the Assumption and Assignment Procedures, the Auction, the Sale Hearing, the Sale Objection Deadline, and the Sale Transaction shall be required if the Debtors serve and publish such notice in the manner provided in the Bidding Procedures and this Order. The Sale Notice contains the type of information required under Bankruptcy Rule 2002 and complies in all respects with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules.

28. All parties in interest shall receive or be deemed to have received good and sufficient notice of (i) the Motion, (ii) the Assumption and Assignment Procedures, including the

potential assumption and assignment of the Transferred Contracts to the Successful Bidder, (iii) the Auction, (iv) the Sale Objection Deadline, (v) the Sale Transaction, including the sale of the Assets, and (vi) the Sale Hearing, and no further notice of the foregoing shall be required, if:

- (a) As soon as practicable, but no later than three calendar days after entry of this Order, the Debtors cause the Sale Notice to be filed with this Court and served by e-mail, mail, facsimile, or overnight delivery on the Sale Notice Parties, all Contract Counterparties, and all known creditors and interest holders identified on the Debtors' creditor matrix; and
- (b) As soon as practicable, but no later than seven calendar days after entry of this Order, the Debtors shall cause the Sale Notice to be published on the Claims Agent Website and once in the national edition of *The New York Times*.

Assumption and Assignment Procedures

29. The Assumption and Assignment Procedures are reasonable and appropriate under the circumstances, fair to all non-Debtor parties, comply in all respects with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, and are approved.

30. Nothing in this Order shall be deemed to limit the Debtors' or the Successful Bidder's ability to negotiate partial assumption and/or assumption and assignment of contracts with Contract Counterparties on a consensual basis.

31. The Cure Notice, substantially in the form attached hereto as **Exhibit 4**, is reasonable, fair, and appropriate, contains the type of information required under Bankruptcy Rule 2002, and complies in all respects with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, and is hereby approved. It is reasonably calculated to provide sufficient notice to the Contract Counterparties of the Debtors' intent to potentially assume and assign the Transferred Contracts to the Stalking Horse Bidder (or as otherwise contemplated by the Stalking Horse Bid) or to a Successful Bidder other than the

Stalking Horse Bidder in connection with the Sale Transaction and constitutes adequate notice thereof.

32. The Debtors shall file the Cure Notice with this Court and serve the Cure Notice on the Contract Counterparties by overnight mail promptly following the Bid Deadline and on or before [July 21], 2025. Service of the Cure Notice in accordance with this Order on all Contract Counterparties is hereby deemed to be good and sufficient notice of the Cure Costs for, and the potential assumption and assignment of, the Transferred Contracts to the Successful Bidder (or as otherwise contemplated by the Successful Bid). As soon as reasonably practicable after serving the Cure Notice, the Debtors shall post a copy of the Cure Notice on the Claims Agent Website.

33. Upon service of the Cure Notice, all Contract Counterparties shall receive or be deemed to have received good and sufficient notice of the Cure Costs for, and the potential assumption and assignment of, the Transferred Contracts to the Successful Bidder or as otherwise contemplated by the Successful Bid.

34. All objections to any proposed Cure Costs (each, a “**Cure Objection**”) and to the provision of adequate assurance of future performance (each, an “**Adequate Assurance Objection**”) must: (i) be in writing; (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules; (iii) state, with specificity, the legal and factual basis thereof, including, with respect to a Cure Objection, what Cure Costs the objecting party believes are required; (iv) include any appropriate documentation in support thereof; and (v) be filed with this Court and served on the Objection Notice Parties by the applicable deadline set forth in the applicable notice.

35. A properly filed Cure Objection will reserve such objecting party's rights against the Debtors only with respect to the assumption and assignment of the Transferred Contract at issue, and/or objection to the accompanying Cure Costs, as set forth in the Cure Objection, but will not constitute an objection to the remaining relief requested in this Order.

36. Any Cure Objection or Adequate Assurance Objection must be filed and served by the Sale Objection Deadline, provided that the Debtors may modify the Sale Objection Deadline by filing a notice of such modification on the Court's docket. If a timely Cure Objection or Adequate Assurance Objection is received and such objection cannot otherwise be resolved by the parties, such objection shall be heard at the Sale Hearing or such later date as the Debtors determine prior to the scheduled Closing (as defined in the Stalking Horse Agreement) of the Sale Transaction.

37. Notwithstanding anything herein to the contrary, if a timely Cure Objection is received and such objection cannot otherwise be resolved by the parties prior to the Sale Hearing, the Debtors may assume and assign the applicable Transferred Contract prior to the resolution of the Cure Objection and such Cure Objection may be scheduled to be heard by the Court after the Sale Hearing. If a Contract Counterparty has objected solely to the proposed Cure Cost, the Debtors or Successful Bidder (or Back-Up Bidder, as applicable) may pay the undisputed portion of such Cure Cost and place the disputed amount in a segregated account pending further order of the Court or mutual agreement of the parties. Under such circumstances, the objecting non-Debtor counterparty's recourse is limited to the funds held in such segregated account.

38. To the extent the Debtors identify at any time after the Cure Notice is served, additional Transferred Contracts (including any Shared Customer Contracts (as defined in the Stalking Horse Agreement) that become Transferred Contracts) that may be assumed and

assigned to the Successful Bidder (or as otherwise contemplated by the Successful Bid), the Debtors shall file with this Court and serve on the relevant Contract Counterparty to such Transferred Contract a supplemental Cure Notice (each, a “**Supplemental Cure Notice**,” the form of which shall be substantially similar to the form of Cure Notice attached hereto as **Exhibit 4**). Any (i) Cure Objection with respect to Cure Costs set forth in a Supplemental Cure Notice and (ii) Adequate Assurance Objection with respect to the assumption and assignment of the Transferred Contract(s) set forth in such Supplemental Cure Notice (each a “**Supplemental Cure Objection**”) must be filed and served on all Objection Notice Parties within seven calendar days of service of that Supplemental Cure Notice. All Supplemental Cure Objections must (a) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (b) state, with specificity, the legal and factual basis for the objection as well as what Cure Costs are required, if any, and (c) include appropriate documentation in support thereof.

39. If no timely Cure Objection is filed and served in respect of a Transferred Contract, the Cure Cost identified on the Cure Notice or a Supplemental Cure Notice, as applicable, will be the only amount necessary under section 365(b) of the Bankruptcy Code to cure all defaults under such Transferred Contract. Any party failing to timely file a Cure Objection shall be forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts against the Debtors, their estates, or the Successful Bidder(s).

40. If no timely Adequate Assurance Objection is filed and served with respect to a Transferred Contract, the Successful Bidder (or any other entity contemplated by the Successful Bid) will be deemed to have provided adequate assurance of future performance for such Transferred Contract in accordance with section 365(f)(2)(B) of the Bankruptcy Code. Any party failing to timely file an Adequate Assurance Objection shall be forever barred from objecting

to the provision of adequate assurance of future performance by the Successful Bidder (or any other entity contemplated by the Successful Bid) and shall be forever barred from requesting any additional provision of adequate assurance of future performance from the Successful Bidder (or any other entity contemplated by the Successful Bid).

41. Prior to Closing, the Debtors shall file one or more notices identifying the Transferred Contracts (including any Shared Customer Contracts that become Transferred Contracts) ultimately designated for assumption and assignment by the Successful Bidder, and shall serve such notices on the relevant Contract Counterparties by overnight mail. The Debtors may provide for additional procedures in the Sale Order with respect to executory contracts or unexpired leases that may be assumed and assigned to the Successful Bidder following Closing of the Sale Transaction.

42. If no timely Cure Objection or Adequate Assurance Objection is filed and served with respect to a Transferred Contract, the relevant Contract Counterparty shall be deemed to have consented to the assumption and assignment of the Transferred Contract to the Successful Bidder (or as otherwise contemplated by the Successful Bid).

43. The Debtors' assumption and assignment of any Transferred Contracts to the Successful Bidder (or as otherwise contemplated by the Successful Bid) is subject to approval of this Court at the Sale Hearing and the consummation of the Sale Transaction. Accordingly, absent the Closing of the Sale Transaction, the Transferred Contracts shall not be deemed assumed or assigned, and shall in all respects be subject to further administration under the Bankruptcy Code.

44. The inclusion of a contract, lease, or other agreement on the Cure Notice or any Supplemental Cure Notice shall not constitute or be deemed a determination or admission by

the Debtors or any other party in interest that such contract or other document is an executory contract or unexpired lease within the meaning of the Bankruptcy Code or that the stated Cure Cost is due (all rights with respect thereto being expressly reserved). The Debtors reserve all of their rights, claims, defenses, and causes of action with respect to each contract, lease, or other document listed on the Cure Notice or any Supplemental Cure Notice. The Debtors' inclusion of an executory contract or unexpired lease on the Cure Notice or any Supplemental Cure Notice shall not be a guarantee that such executory contract or unexpired lease ultimately will be assumed or assumed and assigned.

General Provisions

45. All objections to the relief granted herein, if any, that have not been withdrawn with prejudice, waived, or settled, and all reservations of rights included in such objections, are hereby overruled and denied on the merits with prejudice.

46. All persons or entities (whether or not Qualified Bidders) that participate in the bidding process, including submitting a bid for any of the Assets during the sale process and/or Auction, shall be deemed to have knowingly and voluntarily (i) submitted to the exclusive jurisdiction and authority of this Court with respect to all matters related to the terms and conditions of the transfer of Assets, the Auction, and any Sale Transaction, (ii) consented to the entry of a final order by this Court in connection with the Motion or this Order (including any disputes related to the bidding process, the Auction, and/or any Sale Transaction) to the extent that it is later determined that this Court, absent consent of the parties, cannot enter final orders or judgments in connection herewith consistent with Article III of the United States Constitution, and (iii) waived any right to jury trial in connection with any disputes relating to the any of the foregoing matters.

47. To the extent the provisions of this Order are inconsistent with the provisions of any exhibits referenced herein or with the Motion, the provisions of this Order (excluding exhibits) shall control; provided that if the terms of this Order, the Stalking Horse Agreement, and/or the Bidding Procedures (i) do not expressly resolve the issue under consideration or (ii) are ambiguous with regard to such issue, the Debtors or other parties in interest, on such notice as may be appropriate, may seek such relief from this Court as may be necessary.

48. Notwithstanding the applicability of any of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014, or any other provisions of the Bankruptcy Rules or the Bankruptcy Local Rules stating the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, and any applicable stay of the effectiveness and enforceability of this Order is hereby waived.

49. The Debtors are authorized to make non-substantive changes to the Bidding Procedures, the Assumption and Assignment Procedures, and any related documents without further order of the Court, including changes to correct typographical and grammatical errors and to make conforming non-substantive changes to the Debtors' disclosure statement and chapter 11 plan.

50. The Debtors are authorized to take all steps necessary or appropriate to carry out this Order.

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

Dated: _____, 2025
Houston, Texas

CHRISTOPHER LOPEZ
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Bidding Procedures

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25–90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	

BIDDING PROCEDURES

Overview

On May 28, 2025 (the “**Petition Date**”), Everstream Solutions LLC and its debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes under the lead case, *In re Everstream Solutions LLC, et al.*, Case No. 25-90144 (CML).

On [June [●]], 2025, pursuant to a motion by the Debtors (Docket No. [●]) (the “**Bidding Procedures Motion**”), the Bankruptcy Court entered an order (Docket No. [●]) (the “**Bidding Procedures Order**”),² which approved these procedures (the “**Bidding Procedures**”) for the selection of the highest or otherwise best offer or collection of offers to acquire all or substantially all of the Debtors’ assets, other than the IL Divested Business and the MO Divested Business (each as defined in the Stalking Horse Agreement (as defined herein)) (the “**Assets**”), which transaction(s) may be effectuated through a sale or sales pursuant to section 363 of the Bankruptcy Code.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Motion or Bidding Procedures Order (each as defined herein), as applicable.

Bluebird MidWest, LLC (the “**Stalking Horse Bidder**”), an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator, has submitted a bid and has executed that certain *Asset Purchase Agreement* (together with the exhibits and schedules thereto, and as it may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “**Stalking Horse Agreement**”), executed on May 22, 2025. The Stalking Horse Agreement contemplates, pursuant to the terms and subject to the conditions contained therein, the sale of substantially all of the Assets (other than the PA Business, as defined in the Stalking Horse Agreement) to the Stalking Horse Bidder for the purchase price of (i) \$285 million in cash (subject to purchase price adjustments) and (ii) the assumption of the Assumed Liabilities (as defined in the Stalking Horse Agreement) (collectively, the “**Stalking Horse Bid**”). The Stalking Horse Bid sets the floor for the sale and is subject to higher or otherwise better offers submitted in accordance with the terms and conditions of these Bidding Procedures.

Summary of Important Dates

These Bidding Procedures provide interested parties the opportunity to submit competing bids for all or any portion of the Assets, and to participate in an auction to be conducted by the Debtors (the “**Auction**”).

The key dates for the sale process are as follows. Such dates may be extended or otherwise modified by the Debtors by filing a notice of such extension or modification on the Bankruptcy Court’s docket:

Key Event	Date or Deadline³
Milestone for entry of Bidding Procedures Order	June 27, 2025
Deadline to submit Bids	July 14, 2025 at 4:00 p.m. (prevailing Central Time)
Qualified Bid Deadline: Debtors to notify bidders of status as Qualified Bidders and to file and publish (on Claims Agent Website) notice of Qualified Bids	July 16, 2025 at 4:00 p.m. (prevailing Central Time)
Auction to be held if the Debtors receive more than one Qualified Bid, to be conducted at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to Qualified Bidders	July 17, 2025, at 9:00 a.m. (prevailing Central Time)

³ [**Note to Draft:** Certain dates may be adjusted depending on when the Sale Hearing occurs.]

Key Event	Date or Deadline
Deadline to file notice and identities of Successful Bid(s) and Back-Up Bid(s)	July 21, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file proposed form of Sale Order	[July 21], 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to Sale Transaction	[July 25], 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to cure costs and/or adequate assurance of future performance	[July 25], 2025 at 4:00 p.m. (prevailing Central Time)
Sale Hearing	[August 1], 2025

Property To Be Sold

The Debtors seek to sell all or substantially all of the Assets, in whole or in part to one or more purchasers (each sale in furtherance of the same, a “**Sale Transaction**”).

Due Diligence

The Debtors have posted copies of all material documents related to the Assets to the Debtors’ confidential electronic data room (the “**Data Room**”). To access the Data Room, an interested party must submit to the Debtors or their advisors the following:

- (A) an executed confidentiality agreement in form and substance satisfactory to the Debtors; and
- (B) sufficient information, as reasonably determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders,⁴ DIP Agent, and DIP Lenders,⁵ to allow the Debtors to determine that the interested party (i) has the financial wherewithal to consummate the applicable Sale Transaction and (ii) intends to access the Data Room for a purpose consistent with these Bidding Procedures.

⁴ “**OpCo Lenders**” means the lenders holding prepetition loans to Midwest Fiber Acquisition LLC (“**OpCo**”) pursuant to that certain Credit and Guaranty Agreement, dated as of March 29, 2022, entered into by and between, among others, OpCo, as the borrower, Midwest Fiber Acquisition Midco1 LLC, as pledgor, certain subsidiaries of OpCo, as subsidiary guarantors, the lenders party thereto, and Société Générale, as administrative agent (the “**OpCo Agent**”), as amended, restated, supplemented, or modified from time to time (the “**OpCo Credit Agreement**”). “**Required OpCo Lenders**” as used herein has the meaning of “Required Lenders” under the OpCo Credit Agreement.

⁵ “**DIP Lenders**” means lenders holding 100% of loans under that certain debtor-in-possession financing facility pursuant to that certain Super-Priority Term Loan Debtor-in-Possession Credit and Guaranty Agreement, by and between, among others, OpCo, as the borrower, certain subsidiaries of OpCo, as subsidiary guarantors, the lenders party thereto, and Société Générale, as administrative agent (the “**DIP Agent**”), as amended, restated, supplemented, or modified from time to time (the “**DIP Credit Agreement**”). “**Required DIP Lenders**” has the meaning set forth in the DIP Credit Agreement.

Each interested party that meets the above requirements to the satisfaction of the Debtors shall be a “**Potential Bidder**.” As soon as practicable, the Debtors will provide all Potential Bidders access to the Data Room; provided that such access will be terminated by the Debtors in their discretion, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, at any time, including if (i) a Potential Bidder does not become a Qualified Bidder (as defined herein) or (ii) these Bidding Procedures are terminated.

Each Potential Bidder shall comply with all reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder to consummate the applicable Sale Transaction.

Until the Bid Deadline (as defined herein), subject to the other terms set forth in these Bidding Procedures, the Debtors will provide all Potential Bidders with reasonable access to the Data Room and any additional information requested by Potential Bidders that the Debtors believe to be reasonable and appropriate under the circumstances. All due diligence requests shall be directed to the Debtors’ advisors, Bank Street Group LLC (“**Bank Street**”) at projectlightspeed@bankstreet.com, and PJT Partners LP (“**PJT Partners**”) at lightspeedRSSGProjectPJT@pjtpartners.com.

Unless prohibited by law or otherwise determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, the availability of additional due diligence to a Potential Bidder will cease if (i) the Potential Bidder does not become a Qualified Bidder, (ii) the Potential Bidder informs the Debtors that it is withdrawing from the sale process, or (iii) these Bidding Procedures are terminated.

Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever relating to the Assets (i) to any person or entity (a) who is not a Potential Bidder, (b) who does not comply with the participation requirements set forth above, or (c) if the Debtors, in their reasonable business judgment, determine that such information is sensitive or otherwise not appropriate for disclosure to any Potential Bidder (or their representatives) that the Debtors determine (in their reasonable business judgment) is a competitor of the Debtors or is affiliated with any competitor of the Debtors (except pursuant to “clean team” or other information sharing procedures reasonably satisfactory to the Debtors) and (ii) to the extent not permitted by law or confidentiality provisions in third-party contracts.

Bid Deadline

A Potential Bidder that desires to make a bid (a “**Bid**”) for some or all of the Assets shall deliver electronic copies of the Bid no later than **July 14, 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Bid Deadline**”); provided that the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, may extend the Bid Deadline in their discretion without further order of the Bankruptcy Court subject to providing prior notice to all Potential Bidders, the Stalking Horse Bidder, and the Consultation Parties (as defined herein).⁶ **The**

⁶ For the avoidance of doubt, the Debtors’ ability to extend deadlines as provided herein shall not alter the Stalking Horse Bidder’s rights under the Stalking Horse Agreement.

submission of a Bid by the Bid Deadline shall constitute a binding and irrevocable offer to acquire the Assets as specified in such Bid. Any party that does not submit a Bid by the Bid Deadline will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction.

Bids must be submitted by email to the following:

Weil, Gotshal & Manges LLP
everstream.bids@weil.com

Bank Street
projectlightspeed@bankstreet.com

PJT Partners
lightspeedRSSGProjectPJT@pjtpartners.com

Consultation Parties

Throughout the bidding process, the Debtors and their advisors will regularly and timely consult with (i) Paul Hastings LLP and FTI Consulting as advisors to the OpCo Agent, the OpCo Lenders, the DIP Agent, the DIP Lenders, and the HoldCo Lenders⁷ and (ii) the legal advisor to the Official Committee of Unsecured Creditors, if any ((i) and (ii) collectively, the “**Consultation Parties**”). In the event that any Consultation Party or affiliate of the foregoing submits a Qualified Bid (as defined herein), such party shall no longer be a Consultation Party until such time as such party formally withdraws its Bid.

The Debtors shall promptly provide copies of all Bids received by the Debtors to the Consultation Parties; provided that the Consultation Parties must treat such Bids and any related information as confidential and shall not publicly disclose information without the written consent of the Debtors and the applicable Bidder.

For the avoidance of doubt, any consultation rights (but, for the avoidance of doubt, not any consent rights) afforded to the Consultation Parties by these Bidding Procedures shall not limit the Debtors’ discretion in any way and shall not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

Form and Content of Qualified Bids

A Bid must contain a signed document from a Potential Bidder received by the Bid Deadline that identifies the purchaser by its legal name and any other party that will be

⁷ “**HoldCo Lenders**” means prepetition lenders holding 100% of prepetition loans to Midwest Fiber Holdings LP (“**HoldCo**”) pursuant to that certain Credit and Guaranty Agreement, dated as of March 29, 2022, entered into by and between, among others, HoldCo, as the pledgor, Midwest Fiber Acquisition Topco LLC as borrower, the lenders party thereto, and Alter Domus (US) LLC, as administrative agent (the “**HoldCo Agent**”), as amended, restated, supplemented, or modified from time to time.

participating in connection with the Bid. To constitute a “**Qualified Bid**” a Bid must include, at a minimum, the following:

- (A) Acquired Assets. Each Bid must clearly identify in writing the particular Assets the Potential Bidder seeks to acquire from the Debtors. For the avoidance of doubt, a Qualified Bid may include a bid for less than all or substantially all of the Assets.⁸ To the extent a Bid includes some or all of the PA Business as part of the Assets to be purchased, the Bid must clearly state the portion of the Purchase Price (as defined herein) allocated to such assets.
- (B) Purchase Price; Assumed Liabilities; Form of Consideration; Credit Bid. Each Bid must clearly set forth, as applicable:
 - (i) Purchase Price. Each Bid must specify the price (the “**Purchase Price**”) proposed to be paid for the Assets, and must (a) propose a Purchase Price in cash or other aggregate consideration equal to or greater in value than the purchase price of the Stalking Horse Bid, taking into account Assumed Liabilities designated by the Potential Bidder, among other things, *plus* the Termination Payment, *plus* the amount of the Minimum Overbid Amount (as defined herein), and (b) include an amount in cash sufficient to satisfy the Termination Payment⁹ of up to \$11,400,000.
 - (ii) Assumed Liabilities. Each Bid must clearly identify the particular liabilities, if any, the Potential Bidder seeks to assume.
 - (iii) Form of Consideration. Each Bid must (a) indicate (x) whether it is an all-cash offer (including confirmation that the cash component of the Bid is based in U.S. Dollars) or consists of certain non-cash components, such as a credit bid and/or the assumption of liabilities, and (y) the allocation of the Purchase Price among the Assets to be acquired and the liabilities to be assumed, if applicable; and (b) provide sufficient cash consideration specifically designated for the Termination Payment payable to the Stalking Horse Bidder under the terms of the Stalking Horse Agreement.
 - (iv) Credit Bid. Persons or entities holding a perfected security interest in the Assets may, pursuant to section 363(k) of the Bankruptcy Code, seek to submit a “credit bid” on such Assets, to the extent permitted by applicable law, any Bankruptcy Court orders, and the documentation governing the Debtors’ prepetition or postpetition secured credit facilities. To the extent applicable, a credit bid must include a copy of the direction by the

⁸ The Debtors will consider a Qualified Bid for less than all or substantially all of the Assets, as long as the Debtors have an acceptable sale, restructuring, or other solution for the remaining Assets, as reasonably determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders.

⁹ “**Termination Payment**,” as defined in the Stalking Horse Agreement, means (i) a break-up fee in an amount equal to (i) \$8,550,000, *plus* (as applicable) (ii) the reasonable, out-of-pocket and documented expenses of the Stalking Horse Bidder incurred in connection with the Stalking Horse Agreement and transactions contemplated thereunder, up to an aggregate amount of \$2,850,000.

applicable lenders to the applicable agent to authorize the submission of such credit bid. A credit bid must include a commitment to provide cash consideration sufficient to pay in full all costs associated with winding down the Debtors' chapter 11 cases (including the Termination Payment payable to the Stalking Horse Bidder under the terms of the Stalking Horse Agreement).

- (C) Proposed Purchase Agreement. Each Bid must include, in both PDF and MS-WORD format, an executed purchase agreement (including the disclosure schedules and exhibits thereto) (the "**Proposed Purchase Agreement**"), together with a copy of the same that has been marked against the Stalking Horse Agreement, a copy of which is located in the Data Room.
- (D) Unconditional Offer. A commitment that the Bid is formal, binding, and unconditional (except for those conditions expressly set forth in the Proposed Purchase Agreement), is not subject to any due diligence or financing contingency, and is irrevocable until the Debtors, in consultation with the Consultation Parties, notify such Potential Bidder that such Bid has not been designated as a Successful Bid or a Back-Up Bid (each, as defined herein), or until the first business day after consummation of a Sale Transaction with the Successful Bidder (as defined herein). In the event a Bid is chosen as a Back-Up Bid, it must remain irrevocable until the Back-Up Termination Date (as defined herein); provided that the foregoing shall not apply to the Stalking Horse Bidder except as otherwise set forth in the Stalking Horse Agreement.
- (E) Proposed Transition Services Agreement. Each Bid must include, in both PDF and MS-WORD format, an executed transition services agreement (including any schedules and exhibits thereto), together with a copy of the same that has been marked against the transition services agreement executed by the Stalking Horse Bidder, a copy of which is located in the Data Room.
- (F) Proof of Financial Ability to Perform. Each Bid must contain such financial and other information that allows the Debtors, in consultation with the Consultation Parties, to make a reasonable determination as to the Potential Bidder's financial and other capabilities to consummate the applicable Sale Transaction, including such financial and other information setting forth the Potential Bidder's willingness to perform under any contracts that are assumed and assigned to such party. Without limiting the foregoing, such information must include current financial statements or similar financial information certified to be true and correct as of the date thereof, proof of financing commitments (if needed) to close the applicable Sale Transaction (not subject to, in the Debtors' discretion, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, any unreasonable conditions), contact information for verification of such information, including any financing sources, and any other information reasonably requested by the Debtors, OpCo Agent, OpCo Lenders, DIP Agent, or DIP Lenders necessary to demonstrate that the Potential Bidder has the ability to close the applicable Sale Transaction in a timely manner. Any funding commitments or other financing must not be subject

to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants, conditions, term, and termination provisions acceptable to the Debtors.

- (G) Designation of Contracts and Leases. Each Bid must identify with particularity each executory contract and unexpired lease to be assumed and assigned by Debtors to the Potential Bidder. Each Bid must also include information demonstrating adequate assurance of future performance under such contracts and leases in satisfaction of the requirements under section 365(f)(2)(B) of the Bankruptcy Code.
- (H) Required Approvals. A statement or evidence (i) that the Potential Bidder has made or will make in a timely manner all necessary filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or other Antitrust Laws (as defined in the Stalking Horse Agreement), as applicable, and pay the fees associated with such filings; (ii) identifying each governmental and regulatory third-party approval required for the Potential Bidder to consummate the Sale Transaction; (iii) of the Potential Bidder's plan, including a detailed timeline, and ability to obtain all requisite governmental, regulatory, or other third-party approvals and the proposed timing for the Potential Bidder to undertake the actions required to obtain such approvals; (iv) that the Bid is reasonably likely (based on antitrust or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors; and (v) the Potential Bidder's legal counsel will discuss with and explain to the Debtors' legal counsel such Potential Bidder's regulatory analysis, strategy, and timeline for securing all such approvals as soon as reasonably practicable, and in no event later than the time period contemplated in the Stalking Horse Agreement.
- (I) Advisors. A Qualified Bid must state the identity and contact information of the external advisors (including financial, legal, accounting, tax, technical, commercial, and others), if any, that the Potential Bidder has engaged to assist in the Sale Transaction.
- (J) Disclosure of Identity and Corporate Authorization. Each Bid must (i) fully disclose, by their legal names, the identity of the Potential Bidder and each entity that will be participating in its Bid, and the complete terms of any such participation and (ii) include evidence of corporate authorization and approval from the Potential Bidder's board of directors (or comparable governing body) with respect to the submission, execution, and delivery of a Bid, participation in the Auction, and closing of the transactions contemplated by the Potential Bidder's Proposed Purchase Agreement in accordance with the terms of the Bid and these Bidding Procedures.
- (K) Employee Obligations. Each Bid must specify (i) whether or not the Potential Bidder intends to hire a portion or all of the Debtors' employees and (ii) expressly propose the treatment of the Debtors' prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements,

including, offer letters, employment agreements, consulting agreements, severance arrangements, retention bonus agreements, change in control arrangements, retiree benefits, and any other employment-related agreements (collectively, the “**Employee Obligations**”).

- (L) Conditions to Closing. Each Bid must identify with particularity each condition to closing and state the expected date of closing of the Sale Transaction.
- (M) No Entitlement to Break-Up Fee, Expense Reimbursement, or Other Amounts. Each Bid, other than the Stalking Horse Bid, must include a statement that the Bid does not entitle the Potential Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement, and a waiver of any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code related to the bidding process.
- (N) Joint Bids. The Debtors, in consultation with the Consultation Parties, will be authorized to approve joint Bids, including joint credit bids, in their reasonable discretion on a case-by-case basis.
- (O) Representations and Warranties. Each Bid must include the following representations and warranties:
 - (i) a statement that the Potential Bidder has had an opportunity to conduct any and all due diligence regarding the applicable Assets prior to submitting its Bid;
 - (ii) a statement that the Potential Bidder has relied solely upon its own independent review, investigation, and/or inspection of any relevant documents, as well as the Assets and the liabilities to be assumed (as applicable), in making its Bid and did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding such Assets or liabilities or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the Potential Bidder’s Proposed Purchase Agreement;
 - (iii) a statement that the Potential Bidder agrees to serve as Back-Up Bidder (as defined herein), if its Bid is selected as the next highest or next best bid after the Successful Bid with respect to the applicable Assets;
 - (iv) a statement that the Potential Bidder has not engaged in any collusion with respect to the submission of its Bid;
 - (v) a statement that all proof of financial ability to consummate the applicable Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct; and

- (vi) a statement that the Potential Bidder agrees to be bound by the terms of the Bidding Procedures.
- (P) Additional Requirements. A Potential Bidder must also accompany its Bid with:
- (i) a Deposit (as defined herein), except as otherwise set forth herein;
 - (ii) the contact information of the specific person(s) whom the Debtors or their advisors should contact in the event that the Debtors have any questions or wish to discuss the Bid submitted by the Potential Bidder;
 - (iii) written evidence of available cash, a written, binding commitment for financing (not subject to any conditions other than those expressly set forth in the Proposed Purchase Agreement) and such other evidence of ability to consummate the transaction contemplated by the Proposed Purchase Agreement, the Bidding Procedures Order, and the Bidding Procedures, as acceptable in the Debtors' business judgment;
 - (iv) the identity of each entity that will be participating in connection with such Bid and taking ownership of the Assets (including any equity owners or sponsors, if the Potential Bidder is an entity formed for the purpose of consummating the Sale Transaction) and a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed and to consummate the transaction contemplated by the Proposed Purchase Agreement;
 - (v) a covenant to cooperate with the Debtors, OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements; and
 - (vi) a detailed analysis of the value of any non-cash component of the Bid, if any, and back-up documentation to support such value.

No Communication Among Bidders Without Consent

There must be no communications or coordination between and amongst Potential Bidders without the Debtors' prior written consent (e-mail being sufficient), in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, and on such terms prescribed by the Debtors or the Debtors' advisors in their business judgment, including that the Debtors and the Debtors' advisors shall have the ability to participate in or otherwise observe all communications between Potential Bidders. The Debtors reserve the right, in their business judgment and in consultation with the Consultation Parties, to disqualify any Potential Bidders that have communications or engage in coordination between and amongst themselves without such consent. For the avoidance of doubt, there will be no prohibition on joint Bids; provided that, to the extent any Potential

Bidders are interested in submitting a joint Bid, the Debtors' advisors will facilitate the communications between the parties and the potential joining of Bids.

Review of Bids; Designation and Notice of Qualified Bids

The Debtors, in consultation with the Consultation Parties, will evaluate all Bids that are timely submitted and may engage in negotiations with Potential Bidders who submitted Bids as the Debtors deem appropriate, in the exercise of their business judgment, based upon the Debtors' evaluation of each Bid.

The Debtors, in consultation with the Consultation Parties, shall determine, in their reasonable judgment, which of the Bids received by the Bid Deadline qualify as a Qualified Bid (each Potential Bidder that submits such a Qualified Bid being a **"Qualified Bidder"**) and shall notify each Qualified Bidder of its status as a Qualified Bidder by no later than **July 16, 2025, at 4:00 p.m. (prevailing Central Time)** (the **"Qualified Bid Deadline"**). The Stalking Horse Bidder is a Qualified Bidder and the Stalking Horse Bid (including as may be increased at the Auction (if any)) represents a Qualified Bid, notwithstanding the "Form and Content of Qualified Bids" requirements set forth herein.

Without the written consent of the Debtors, in consultation with the Consultation Parties, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase the Purchase Price or otherwise improve the terms of its Qualified Bid during the period that such Qualified Bid remains binding as specified herein; provided that any Qualified Bid may be improved at the Auction as set forth in these Bidding Procedures; provided, further, that the Stalking Horse Bid may be modified, amended, or withdrawn pursuant to its terms. The Debtors, in consultation with the Consultation Parties, reserve the right to work with any Potential Bidder in advance of the Auction to cure any deficiencies in a Bid that is not initially deemed a Qualified Bid and to clarify or otherwise improve such Bid such that it may be designated a Qualified Bid.

In evaluating the Bids, the Debtors, in consultation with the Consultation Parties, may take into consideration the following non-binding, and non-exclusive factors:

1. the amount and the form of consideration of the Purchase Price;
2. the assets and liabilities included in or excluded from the Bid, including any executory contracts or unexpired leases proposed to be assumed and assigned and the allocation of liability for any cure costs in connection therewith;
3. the value to be provided to the Debtors under the Bid, including the net economic effect upon the Debtors' estates;
4. any benefit to the Debtors' bankruptcy estates from any assumption or waiver of liabilities;
5. the transaction structure and execution risk, including conditions to, timing of, and certainty of closing, termination provisions, availability of financing and financial

- wherewithal to meet all commitments, and required governmental or other approvals;
6. the impact on employees and the proposed treatment of the Employee Obligations;
 7. the impact on trade creditors;
 8. the certainty of the Debtors being able to confirm a chapter 11 plan concurrent with or following the consummation of the proposed Sale Transaction and the Debtors' ability to effectuate an appropriate wind-down of their estates in connection therewith; and
 9. any other factors the Debtors, in consultation with the Consultation Parties, may reasonably deem relevant consistent with their fiduciary duties.

The Debtors shall prepare a notice of the Bid that the Debtors have determined to be the highest or otherwise best Qualified Bid to serve as the baseline bid at the Auction, if any. On the Qualified Bid Deadline, the Debtors shall file such notice on the Bankruptcy Court's docket and publish such notice on the chapter 11 website maintained by their claims and noticing agent, Stretto, Inc. (<https://cases.stretto.com/everstream>, the "**Claims Agent Website**").

For the avoidance of doubt: (i) the DIP Secured Parties (as defined in the DIP Order)¹⁰ shall have the right to credit bid (the "**DIP Credit Bid**" and, the party submitting such DIP Credit Bid, the "**DIP Credit Bidder**") any portion and up to the entire amount of the outstanding DIP Obligations (as defined in the DIP Order) at or before the Auction pursuant to section 363(k) of the Bankruptcy Code with respect to all or any portion of the Assets securing the DIP Obligations; (ii) the DIP Secured Parties shall be deemed to be Qualified Bidders with respect to any credit bid of the DIP Obligations; and (iii) any credit bid submitted by the DIP Secured Parties shall be deemed a Qualified Bid. In addition, any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates and the right under applicable nonbankruptcy law to credit bid claims secured by such liens shall have the right to credit bid all or a portion of the value of such Qualified Bidder's claims pursuant to section 363(k) of the Bankruptcy Code with respect to the collateral by which such Qualified Bidder's claim is secured.

Failure to Receive Qualified Bids Other Than Stalking Horse Bid

If the Debtors do not receive any Qualified Bids (other than the Stalking Horse Bid) for any of the Assets on the same or better terms as provided in the Stalking Horse Bid by the Bid Deadline, the Debtors will not conduct the Auction and shall file a notice with the Bankruptcy Court by **July 16, 2025, at 4:00 p.m. (prevailing Central Time)**, or as soon as practicable thereafter, indicating that the Auction has been cancelled. The Debtors shall also publish such notice on the Claims Agent Website. If the Debtors, in consultation with the Consultation Parties,

¹⁰ "**DIP Order**" means the interim or final order, as applicable, approving *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, and (V) Granting Related Relief* (Docket No. 46).

determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed a Successful Bid.

Deposit

A Bid must be accompanied by a good faith cash deposit in the amount of no less than 10% of the Purchase Price (a “**Deposit**”); provided that, a Potential Bidder submitting a credit bid will not be required to accompany its Bid with a Deposit for any portion of the Purchase Price that is a credit bid, but shall be required to provide a Deposit for any portion of its Bid that is not a credit bid. A Deposit must be deposited prior to the Bid Deadline with an escrow agent selected by the Debtors (the “**Escrow Agent**”) pursuant to an escrow agreement to be provided by the Debtors. To the extent a Qualified Bidder increases the Purchase Price before, during, or after the Auction, such Qualified Bidder shall promptly, and in no event more than one business day thereafter, adjust its Deposit so that it equals 10% the increased Purchase Price. The requirements set forth in this “Deposit” section do not apply to the Stalking Horse Bidder and shall be governed instead by the Stalking Horse Agreement.

Auction Procedures

If the Debtors, in consultation with the Consultation Parties, receive any Qualified Bids (other than the Stalking Horse Bid) with respect to the same or overlapping Assets or group of Assets, the Debtors will conduct the Auction on **July 17, 2025 at 9:00 a.m. (prevailing Central Time)**, at **(i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually**, pursuant to procedures to be announced to bidders, or at such other date, time, and location as shall be timely communicated to all parties entitled to attend the Auction. Only Qualified Bidders will be eligible to participate in the Auction, subject to such limitations as the Debtors may impose in good faith. In addition, professionals and/or other representatives of the Debtors and the Consultation Parties shall be permitted to attend and observe the Auction.

Each Qualified Bidder shall be required to confirm, both before and after the Auction, that it has not engaged in any collusion with respect to the submission of any Bid, the bidding, or the Auction.

At the Auction, bidding for the Assets will start with the highest or otherwise best purchase price and/or terms received as determined by the Debtors in their sole discretion and will proceed thereafter in minimum bid increments of not less than \$1,000,000 (a “**Minimum Overbid Amount**”). The Debtors, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), reserve the right to and may increase or decrease the Minimum Overbid Amount at any time during the Auction. The Stalking Horse Bidder and other Qualified Bidders may increase their bids at the Auction, including with cash, cash equivalents, or other forms of consideration.

The Debtors, in consultation with the Consultation Parties, may adopt rules for the Auction consistent with these Bidding Procedures and the Bidding Procedures Order that the Debtors, in

consultation with the Consultation Parties, reasonably determine to be appropriate to promote a competitive auction. Any rules adopted by the Debtors will not unilaterally modify any of the terms of the Stalking Horse Bid (which may be consensually modified at the Auction), without the consent of the Stalking Horse Bidder. The Auction will be conducted openly and shall be transcribed or recorded.

The Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), in the exercise of their business judgment, identify the highest or otherwise best Qualified Bid(s) as the successful Bid(s) (a “**Successful Bid**” and, the bidder submitting such Bid, a “**Successful Bidder**”). The Debtors may also, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), identify which Qualified Bid constitutes the second highest or otherwise best Bid (the “**Back-Up Bid**” and, the bidder submitting such Bid, the “**Back-Up Bidder**”). The Back-Up Bid shall remain open and irrevocable until the earliest to occur of (i) consummation of the Sale Transaction with a Successful Bidder, and (ii) the release of such Back-Up Bid by the Debtors in writing (such date, the “**Back-Up Termination Date**”). If a Sale Transaction with a Successful Bidder is terminated prior to the Back-Up Termination Date, the Back-Up Bidder shall be deemed a Successful Bidder and shall be obligated to consummate the Back-Up Bid as if it were a Successful Bid; provided that if the Stalking Horse Bid is deemed the Back-Up Bid, the Stalking Horse Bidder shall only be obligated to consummate the Back-Up Bid in accordance with the terms of the Stalking Horse Agreement. For the avoidance of doubt, nothing in this “Auction Procedures” section shall alter the requirement that, if the Debtors, in consultation with the Consultation Parties, determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed a Successful Bid.

Notwithstanding anything herein or the Bidding Procedures Order to the contrary, whether or not an Auction is held, if the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors, in consultation with the Consultation Parties, may designate a Back-Up Bidder as the Successful Bidder and such Back-Up Bidder’s Back-Up Bid as the Successful Bid by filing a notice to such effect with the Bankruptcy Court in these chapter 11 cases (the “**Back-Up Bid Implementation Notice**”) and serving such notice on the Sale Notice Parties (as defined in the Bidding Procedures Motion) and, if so designated, the Debtors shall seek to consummate the Sale Transaction pursuant to the Back-Up Bid; provided that if the Stalking Horse Bid is deemed the Back-Up Bid, the Stalking Horse Bidder shall only be obligated to consummate the Back-Up Bid in accordance with the terms of the Stalking Horse Agreement. As soon as practicable after the Debtors file the Back-Up Bid Implementation Notice, if necessary, the Debtors shall file a motion with the Bankruptcy Court seeking approval of assumption and assignment procedures for unexpired leases and executory contracts in connection with such Back-Up Bid.

At any time before entry of an order approving any Sale Transaction, the Debtors reserve the right to and may reject any Bid or any Qualified Bid (other than the Stalking Horse Bid) if such Qualified Bid, in the Debtors’ judgment, is: (i) inadequate or insufficient; (ii) not in conformity with the requirements of the Bankruptcy Code, these Bidding Procedures, or the terms and

conditions of the applicable Sale Transaction; or (iii) contrary to the best interests of the Debtors and their estates. No attempt by the Debtors to reject any Bid or any Qualified Bid under this paragraph will modify any rights of the Debtors or the Stalking Horse Bidder under the Stalking Horse Agreement (as it may be consensually modified in writing by the Debtors and the Stalking Horse Bidder at the Auction or prior thereto).

Post-Auction Process

Within one business day after the conclusion of the Auction, if one is held, or as soon as reasonably practicable thereafter, the Debtors shall file with the Bankruptcy Court and post on the Claims Agent Website a notice of the Successful Bid(s), Successful Bidder(s), Back-Up Bid(s), and Back-Up Bidder(s). Unless otherwise required by applicable law or the Debtors' fiduciary duties, the Debtors shall not consider any Bids submitted after the conclusion of the Auction.

The Successful Bidder shall appear at the Sale Hearing (as defined herein) and be prepared to have a representative(s) testify in support of its Successful Bid and the Successful Bidder's ability to close in a timely manner and provide adequate assurance of its future performance under all executory contracts and unexpired leases to be assumed and assigned as part of the applicable Sale Transaction. Within seven calendar days after the Auction (if any), the Debtors shall direct the Escrow Agent to return the Deposits of all bidders, together with interest accrued thereon, other than the Deposits of the Successful Bidder(s) and Back-Up Bidder(s); provided that, for the avoidance of doubt, the return of the Escrowed Funds (as defined in the Stalking Horse Agreement) shall be governed by the Stalking Horse Agreement. Within five business days after the Back-Up Termination Date, the Debtors shall direct the Escrow Agent to return the Deposit(s) of the Back-Up Bidder(s), together with interest accrued thereon (if any); provided that, for the avoidance of doubt, the return of the Escrowed Funds shall be governed by the Stalking Horse Agreement.

The Successful Bidder's deposit (if any) shall be applied against the portion of the Purchase Price of its Successful Bid upon the consummation of the applicable Sale Transaction. In addition to the foregoing, the deposit of any Qualified Bidder will be forfeited to the Debtors if (i) the Qualified Bidder attempts to modify, amend, or withdraw its Qualified Bid, except as permitted herein or with the Debtors' written consent, during the time the Qualified Bid remains binding and irrevocable or (ii) except as provided herein, the Qualified Bidder is selected as a Successful Bidder and fails to enter into the required definitive documentation or to consummate the applicable Sale Transaction in accordance with these Bidding Procedures; provided that this paragraph shall not apply to the Escrowed Funds, and such Escrowed Funds shall be treated as set forth in the Stalking Horse Agreement.

Notices Regarding Assumption and Assignment

The Debtors shall provide all notices regarding the proposed assumption and assignment of contracts and leases no later than seven days prior to the deadline to file objections to cure costs and/or adequate assurance of future performance, and in accordance with the Assumption and Assignment Procedures included in the Bidding Procedures Order.

Sale Hearing

The Debtors intend to proceed with the Sale Transaction pursuant to section 363 of the Bankruptcy Code and will seek entry of an order authorizing and approving, among other things, the applicable Sale Transaction (the “**Sale Order**”) at a hearing before the Bankruptcy Court to be held on **[August 1], 2025** (the “**Sale Hearing**”). The objection deadline for any Sale Transaction to be approved at the Sale Hearing will be **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Sale Objection Deadline**”). The Sale Hearing may be adjourned or continued to a later date by the Debtors, after consultation with the Stalking Horse Bidder and counsel to the OpCo Lenders and DIP Lenders, by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

Objections to any Sale Transactions, including any objection to the sale of any Assets free and clear of liens, claims, encumbrances, and other interests (each, a “**Sale Objection**”), must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (iii) state with particularity the basis and nature of any objection, and provide proposed language that, if accepted and incorporated by the Debtors, would obviate such objection; (iv) conform to the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules; (v) be filed with the Bankruptcy Court; and (vi) be served upon the following parties by the Sale Objection Deadline: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Michael Fingerhut, Esq. (michael.fingerhut@nortonrosefulbright.com)); (f) counsel to any statutory committee appointed in these chapter 11 cases; (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”). In addition to being filed with the Bankruptcy Court, any such responses or objections must be served on the Objection Notice Parties and any such other parties as the Bankruptcy Court may order, by

the Sale Objection Deadline; provided that the Debtors may extend such Sale Objection Deadline, as the Debtors deem appropriate. If a timely Sale Objection cannot otherwise be resolved by the parties, such objection shall be heard by the Bankruptcy Court at the applicable sale hearing (which may be the Sale Hearing).

ANY PARTY WHO FAILS TO FILE A SALE OBJECTION WITH THE BANKRUPTCY COURT AND SERVE IT ON THE OBJECTION NOTICE PARTIES BY [JULY 25], 2025 AT 4:00 P.M. (PREVAILING CENTRAL TIME) WILL BE FOREVER BARRED FROM ASSERTING, AT THE SALE HEARING OR THEREAFTER, ANY OBJECTION TO THE CONSUMMATION OF THE APPLICABLE SALE TRANSACTION AND ANY RELATED RELIEF REQUESTED BY THE DEBTORS.

Consent to Jurisdiction and Authority as Condition to Bidding

All Potential Bidders (including the Stalking Horse Bidder) that participate in the bidding process shall be deemed to have (i) consented and submitted to the jurisdiction and core authority of the Bankruptcy Court with respect to these Bidding Procedures, the bidding process, the Auction, any Sale Transaction, the Sale Hearing, or the construction and enforcement of any agreement or any other document relating to a Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to any of the foregoing, and (iii) consented to the entry of a final order or judgment in any way related to any of the foregoing if it is determined that the Bankruptcy Court would lack authority to enter such a final order or judgment absent the consent of the parties.

Reservation of Rights

The Debtors reserve the right to, in their reasonable business judgment, in consultation with the Consultation Parties, in a manner consistent with their fiduciary duties and applicable law: (i) to modify these Bidding Procedures; (ii) waive terms and conditions set forth herein with respect to all Potential Bidders; (iii) extend the deadlines set forth herein; (iv) announce at the Auction the modified or additional procedures for conducting the Auction; and (v) provide reasonable accommodations to the Stalking Horse Bidder with respect to such terms, conditions, and deadlines of the bidding and Auction process to promote further Bids on any Assets, in each case, to the extent not materially inconsistent with these Bidding Procedures and the Bidding Procedures Order; provided that any such modification or other adjustment to the Bidding Procedures shall not disproportionately affect the Stalking Horse Bidder in any material adverse way. Except as provided in the Stalking Horse Agreement, nothing in these Bidding Procedures shall obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

Fiduciary Out

Nothing in these Bidding Procedures shall require the Debtors to take any action, or refrain from taking any action, to the extent the Debtors determine, following the receipt of advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

Exhibit 2

Stalking Horse Agreement

ASSET PURCHASE AGREEMENT

dated as of May 22, 2025

by and among

Midwest Fiber Holdings LP, as **Seller Parent**,

Bluebird MidWest, LLC, as **Buyer**,

and, solely for purposes of Section 6.04 and Article XII, MIP IV MidWest Fiber Parent, LLC, as
Buyer Parent

NOTE: STRICTLY PRIVATE AND CONFIDENTIAL DRAFT FOR DISCUSSION PURPOSES ONLY AND SUBJECT IN ALL RESPECTS TO THE CONFIDENTIALITY AGREEMENT SIGNED BETWEEN SELLER PARENT (OR ITS AFFILIATE) AND RECIPIENT (OR ITS AFFILIATE). CIRCULATION OF THIS DRAFT SHALL NOT GIVE RISE TO ANY DUTY TO NEGOTIATE OR CREATE OR IMPLY ANY OTHER LEGAL OBLIGATION. NO LEGAL OBLIGATION OF ANY KIND WILL ARISE UNLESS AND UNTIL A DEFINITIVE WRITTEN AGREEMENT IS EXECUTED AND DELIVERED BY ALL PARTIES.

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EXHIBITS

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Exhibit C	Form of Transferred Leased Property Assignment and Assumption Agreement
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SCHEDULES

Schedule A	Seller Parties

ASSET PURCHASE AGREEMENT

This ASSET PURCHASE AGREEMENT, dated as of May 22, 2025 (the “**Agreement Date**”), is made by and among Midwest Fiber Holdings LP, a Delaware limited partnership (“**Seller Parent**”), Bluebird MidWest, LLC, a Delaware limited liability company (“**Buyer**”, and, together with Seller Parent, the “**Parties**”), and solely for the purposes of Section 6.04 and Article XII, MIP IV MidWest Fiber Parent, LLC, a Delaware limited liability company (“**Buyer Parent**”).

PRELIMINARY STATEMENTS

A. Promptly following the execution of this Agreement, Seller Parent and certain of its Affiliates intend to file voluntary petitions for relief under title 11 of the United States Code, 11 U.S.C. § 101 et seq. (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas (such court, the “**Bankruptcy Court**”, and such cases, “**Bankruptcy Cases**”).

B. Seller Parent owns and controls, directly or indirectly, the Persons set forth on Schedule A (Seller Parent and each such Person individually, a “**Seller Party**”, and collectively, the “**Seller Parties**”).

C. The Seller Parties are engaged in, or hold assets or liabilities relating to, the Business.

D. Seller Parent desires to, and desires to cause the other Seller Parties to, sell to Buyer, and Buyer desires to purchase from the Seller Parties, all of the Transferred Assets, and Buyer desires to assume the Assumed Liabilities, in a sale authorized by the Bankruptcy Court pursuant to, *inter alia*, sections 105, 363 and 365 of the Bankruptcy Code, in each case on the terms and subject to the conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing and the representations, warranties, covenants and agreements set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Certain Defined Terms. Capitalized terms used in this Agreement have the meanings specified in Exhibit A and Exhibit L.

ARTICLE II

PURCHASE AND SALE; CLOSING

Section 2.01. Purchase and Sale of Transferred Assets.

(a) Transferred Assets. On the terms and subject to the conditions set forth in this Agreement and subject to the exclusions set forth in Section 2.02 and Section 2.02 and subject to Section 6.10 (as applicable), at the Closing, Seller Parent shall, and shall cause each other Seller Party to, sell, convey, assign, transfer, and deliver to Buyer, and Buyer shall purchase, acquire, and accept from each such Seller Party, free and clear of all Liens (except for Permitted Liens) all of such Seller Party's right, title, and interest in and to all of the assets, properties, and rights (whether tangible or intangible) owned, used, held for use, leased, or otherwise employed by such Seller Party primarily related to the operation of the Business (other than the Excluded Assets (as defined below)) as the same shall exist immediately prior to the Closing (collectively, the "**Transferred Assets**"), including:

(i) all real property owned in fee by any Seller Party and related to the Business (including the real property set forth on Schedule 2.01(a)(i)) held by such Seller Party, together with (to the extent of such Seller Party's interest therein) all buildings, structures, improvements, facilities, fixtures, and appurtenances thereto, and all rights in respect thereof, and all servitudes, easements, rights-of-way, and other surface use agreements and water use agreements, if any, related thereto (the "**Transferred Owned Real Property**"), in each case, other than as included in the Excluded Asset;

(ii) (A) subject to Section 2.04(d), the real property that is leased by any Seller Party, in each case, granting such Seller Party a valid leasehold or subleasehold estate or other right to use or occupy such real property which is related to the Business (including the real property set forth on Schedule 2.01(a)(ii)(A)) (the "**Transferred Leased Real Property**"), together with the Transferred Owned Real Property, collectively, the "**Transferred Real Property**") and all rights in respect thereof (including, to the extent assignable or transferable, all options and rights of first refusal) and all tenements, hereditaments, appurtenances, and other property rights appertaining thereto (such leases, subleases, licenses, and other agreements pursuant to which any Seller Party holds any Transferred Leased Real Property, including the right to all security deposits and other amounts and instruments deposited by or on behalf of applicable Seller Party thereunder, the "**Transferred Leases**"), in each case, other than to the extent an Excluded Asset and (B) the easements, fiber optic networks, cabling, and other fixed network-related assets displayed on the KMZ Map, including without limitation the easements set forth on Schedule 2.01(a)(ii)(B), in each case, other than to the extent an Excluded Asset;

(iii) subject to Section 2.02, (A) all non-Executory Contracts set forth on Schedule 2.01(a)(iii)(A), (B) all the BTOP Grants, (C) all Separated Business Contracts, and (D) all Executory Contracts set forth on Schedule 2.01(a)(iii)(D), in each case excluding, as of and following the Cut-Off Date, (x) any Specified 2.02 Contracts and Specified 6.10 Contracts, in each case for which Buyer's consent has not been obtained, or any other Holdback Contracts or Non-Separated Contracts that have not otherwise been properly separated and/or assigned to Buyer, in accordance with Section 2.02 or Section 6.10, respectively, as of the Cut-Off Date and/or are

Excluded Contracts hereunder and (y) Contracts that the Parties mutually determine would reasonably be expected (I) to cause the conditions set forth in Section 10.01(b) and/or Section 10.02(b) not to be satisfied, or (II) otherwise require additional approval from or filing with any Government Authority and/or reasonably be expected to implicate additional scrutiny therefrom (the Contracts in clauses (A), (B), (C), and (D), collectively with the Transferred Leases, the **“Transferred Contracts”**);

(iv) to the maximum extent permitted by the Bankruptcy Code or other applicable Law, the IRUs related to the IRU Agreements that are set forth on Schedule 2.01(a)(iv);

(v) to the maximum extent permitted by the Bankruptcy Code or other applicable Law, all Permits, including all Communications Permits and Environmental Permits, to the extent that such Permits are primarily related to the Business, including the ownership or operation thereof (the **“Transferred Permits”**), in each case, other than as included in the Excluded Assets;

(vi) (A) all rights of such Seller Party under or pursuant to all warranties, representations, and guarantees made by suppliers, manufacturers, contractors for other third parties to the extent pertaining to any Transferred Assets or (B) all rights and defenses pertaining to any Assumed Liability;

(vii) (A) all Business Intellectual Property (including the Business Registered IP set forth on Schedule 2.01(a)(vii)), along with (1) all income, royalties, damages and payments due or payable to any Seller Party as of the Closing or thereafter, including damages and payments for past, present or future infringements or misappropriations thereof, (2) the right to sue and recover for past infringements or misappropriations thereof, (3) any and all corresponding rights that, now or hereafter, may be secured throughout the world, and (4) all copies and tangible embodiments of any such Business Intellectual Property in any Seller Party’s possession or control, (B) Business Technology, and (C) Business Systems, in each case of clauses (A), (B) and (C), other than to the extent scheduled as Excluded Assets;

(viii) all Assumed Employee Plans and any and all assets, trusts, funding vehicles and administrative services or other contracts or property related thereto;

(ix) to the extent not included as a Transferred Contract, (A) all non-competition, non-solicitation and restrictive covenant agreements and arrangements that are primarily related to the Business, and (B) all invention assignments and work made for hire provisions, in each case, arising by operation of Law or Contract with respect to the relationship between any Seller Party and any Covered Employee or Former Covered Employee and that are primarily related to the Business;

(x) to the maximum extent permitted by the Bankruptcy Code or applicable Law (including Privacy Laws and the published privacy policies of the applicable Seller Party in effect as of the date of this Agreement), the Transferred Books and Records;

(xi) all tangible personal property and interests therein owned by any Seller Party related to the Business, including furniture, furnishings, office equipment, communications equipment, vehicles, and other tangible personal property (including, rights, if

any, in any of the foregoing purchased subject to any conditional sales or title retention agreement in favor of any other Person), in each case, other than to the extent scheduled as Excluded Assets;

(xii) all inventory used in connection with the Business, wherever located, including raw materials, works in progress, packaging, supplies, tooling and parts, whether held at any location or facility of any Seller Party or in transit to any Seller Party, in each case, as of the Closing Date, in each case, other than as included in the Excluded Assets (the “**Inventory**”);

(xiii) the assets listed on Schedule 2.01(a)(xiii);

(xiv) all goodwill of the Business;

(xv) (A) all Avoidance Actions (other than D&O Avoidance Actions) primarily related to the Transferred Assets and/or Assumed Liabilities, including actions against vendors and service providers that are counterparties to Transferred Contracts or related to Assumed Liabilities; and (B) except for Retained Set-Off Rights, all rights, claims, Causes of Action, rights of recovery, rights of set-off, and rights of recoupment or other Action existing as of the Closing Date of any Seller Party against any Transferred Employee;

(xvi) all Causes of Action (including counterclaims) and defenses, including those arising in connection with the Bankruptcy Cases;

(xvii) all Deposits determined to be included as a Transferred Asset in accordance with Section 2.06; and

(xviii) to the extent not an Excluded Asset, for the avoidance of doubt, prepayments pursuant to Transferred Contracts or otherwise arising out of the Transferred Assets (as applicable).

(b) Excluded Assets. Notwithstanding anything to the contrary herein, the following assets of or in the possession of the Seller Parties (the “**Excluded Assets**”) shall be retained by the Seller Parties and their respective Affiliates:

(i) subject to Section 2.02, all Contracts set forth on Schedule 2.01(b)(i) and those Contracts rejected in the Bankruptcy Cases prior to the Closing Date in accordance with this Agreement (“**Excluded Contracts**”);

(ii) all accounts receivable owed to any Seller Party related to the Business prior to the Closing, including any Intercompany accounts receivable; *provided, however*, that unbilled amounts with respect to DISH that, as of the Closing Date, relate to future periods following the Closing Date, shall not be Excluded Assets (and shall be Transferred Assets);

(iii) all Cash;

(iv) other than the Transferred Owned Real Property and Transferred Leased Real Property, all right, title, and interest in and to any other owned or leased real property, together with all improvements, facilities, fixtures, and appurtenances thereto, and all rights in

respect thereof, and all servitudes, easements, rights-of-way, other surface use agreements, and water use agreements related thereto and, with respect to any such real property, all rights in respect thereof (including all options and rights of first refusal) and all tenements, hereditaments, appurtenances, and other property rights appertaining thereto;

(v) all Intellectual Property, Technology, and Systems set forth on Schedule 2.01(b)(v);

(vi) all Personal Data that is nontransferable under the Bankruptcy Code or applicable Law (including Privacy Laws or under the privacy policies or notices of the applicable Seller Party in effect at the time of collection of such Personal Data);

(vii) all claims, rights, or interests of the Seller Parties or their respective Affiliates in or to any refund, rebate, abatement, or other recovery for Taxes and any other Tax assets (including any Tax attributes), together with any interest due thereon or penalty rebate arising therefrom, in each case (A) based on net income that is imposed on the Seller Parties or any of their respective Affiliates, (B) allocable to the Seller Parties pursuant to Section 9.02 or (C) attributable to the Excluded Assets;

(viii) all Tax Returns and other Tax records (including all related working papers) primarily related to (A) the Excluded Assets or (B) income Taxes of the Seller Parties or their respective Affiliates;

(ix) all Insurance Policies and all rights of any nature with respect to any such Insurance Policy, including any recoveries thereunder and any rights to assert claims seeking any such recoveries;

(x) all nontransferable Permits (provided that the Permits set forth on Schedule 2.01(b)(xi) are those known as of the Agreement Date by Seller Parent to be nontransferable);

(xi) all rights and interests of any of the Seller Parties under the Transaction Agreements;

(xii) all Employee Plans that are not Assumed Employee Plans, and any and all assets, trusts, funding vehicles, insurance policies and administrative service or other contracts or property related thereto;

(xiii) (A) all minute books (and other similar corporate records) and stock records, (B) any books and records primarily related to the Excluded Assets, (C) any books and records or other materials of or in the possession of the Seller Parties that (I) any of the Seller Parties are required by Law or by Order of the Bankruptcy Court to retain or (II) any of the Seller Parties are prohibited by Law from delivering to Buyer, (D) any copies of any books and records that (I) any of the Seller Parties reasonably believes are necessary to enable the Seller Parties to prepare or file Tax Returns or (II) any Seller Party and its Affiliates retain pursuant to Section 7.01(a); and (E) any books, records, files, or papers that are not Transferred Books and Records;

(xiv) (A) all records and reports prepared or received by any Seller Party or any of its Affiliates in connection with the sale of the Business or the Transactions or any other Transaction Agreement, including all analyses relating to the Business for purposes of the sale of the Business or the Transactions, or related to Buyer or any third-party bidder or potential purchaser, (B) all bids and expressions of interest received from third parties with respect to the Business, and (C) all privileged communications described in Section 12.21;

(xv) any warranties, representations, and guarantees primarily related to any Excluded Asset or rights and defenses primarily related to any Excluded Liability;

(xvi) all right, title and interest in and to all equity interests of any Person owned by any Seller Party;

(xvii) all assets or rights of every kind and description, in each case, to the extent used exclusively in connection with the PA Business, wherever located, whether real, personal, or mixed, tangible or intangible, that are owned by any Seller Party;

(xviii) the IL Divested Business Assets and the MO Divested Business Assets;

(xix) all inventory listed on Schedule 2.01(b)(xix);

(xx) all (A) D&O Avoidance Actions, (B) Avoidance Actions other than those set forth in Section 2.01(a)(xv), and (C) setoff or clawback rights that are set forth on Schedule 2.01(b)(xx) or that arise from Avoidance Actions in relation to any Liability that is not an Assumed Liability (each, a “**Retained Set-Off Right**”); and

(xxi) the assets listed on Schedule 2.01(b)(xxi).

(c) Assumed Liabilities. On the terms and subject to the conditions set forth in this Agreement and subject to the exclusions set forth in Section 2.01(d), as partial consideration for the Transferred Assets, upon the consummation of the Closing, Buyer shall, effective as of the Effective Time, assume and thereafter timely pay, discharge, and perform in accordance with their terms, only the following Liabilities, without duplication and only to the extent not paid prior to the Closing, and in each case excluding the Excluded Liabilities (the “**Assumed Liabilities**”):

(i) except as otherwise set forth in Section 2.01(c)(v) and Section 2.01(c)(vi), all Liabilities arising under any of the Transferred Contracts, in each case, solely to the extent arising from periods occurring on or after the Closing and relating (and only to the extent so relating) to facts, circumstances or occurrences first arising after the Closing and that do not arise from or relate to, and are not in connection with, any event, circumstance or condition occurring or existing at or prior to the Closing that, with or without notice or lapse of time, would constitute or result in a breach, violation or default under applicable Law or any such Transferred Contracts by any Seller Party or any of their Affiliates;

(ii) 50% of all Liabilities with respect to Transfer Taxes;

(iii) all Liabilities accruing after the Closing, under Environmental Laws, including those relating in any way to the environment or natural resources, human health and safety, or Hazardous Materials;

(iv) all Liabilities relating to Buyer's ownership or operation of the Transferred Assets, to the extent arising from events, facts, or circumstances that occur from and after the Effective Time, solely to the extent arising from periods occurring on or after the Closing and relating (and only to the extent so relating) to facts, circumstances or occurrences first arising after the Closing and that do not arise from or relate to, and are not in connection with, any event, circumstance or condition occurring or existing at or prior to the Closing that, with or without notice or lapse of time, would constitute or result in a breach, violation or default under applicable Law or any such Transferred Contracts by any Seller Party or any of their Affiliates;

(v) all Liabilities arising under any finance lease that is a Transferred Contract (and excluding, for the avoidance of doubt, any Cure Costs related to any such finance lease that is a Transferred Contract);

(vi) amounts expressly required to be paid by Buyer pursuant to the terms of this Agreement;

(vii) any Liability expressly assumed by Buyer pursuant to Section 6.10;
and

(viii) the Liabilities listed on Schedule 2.01(c)(viii).

(d) Excluded Liabilities. Notwithstanding any other provision of this Agreement, Buyer is not assuming or agreeing to pay or discharge, and the Seller Parties shall be solely and exclusively liable with respect to Liabilities of the Seller Parties or otherwise with respect to the Business or Excluded Business that are not Assumed Liabilities (the "**Excluded Liabilities**"), which shall include the following:

(i) except for Liabilities arising under finance leases that are Transferred Contracts or as otherwise set forth on Schedule 2.01(c)(viii), any Debt, including any Intercompany Debt;

(ii) any Liability to the extent related to or arising out of any Excluded Asset or the Excluded Business;

(iii) any Liability for (A) income Taxes of any of the Seller Parties or their respective Affiliates, or any combined, unitary, or consolidated group of which any of the foregoing is or was a member, (B) Taxes attributable to the Transferred Assets allocable to any Tax period or portion of any Straddle Period ending on or prior to the Closing Date (determined, in the case of any Straddle Period, in accordance with Section 3.03), and (C) Taxes primarily related to the Excluded Assets;

(iv) any Liability expressly retained by the Seller Parties pursuant to Section 6.10 or the other express terms of this Agreement;

(v) all Liabilities for accounts payable or other accrued expenses or other accrued Liabilities of any kind owed by any Seller Party or any of their Affiliates as of or relating to prior to the Closing, including any Intercompany accounts payable;

(vi) the IL Divested Business Liabilities and the MO Divested Business Liabilities;

(vii) Liabilities relating to amounts to be paid by the Seller Parties pursuant to this Agreement, including brokers fees;

(viii) any Liabilities relating to any existing Liens (other than Permitted Liens);

(ix) any regulatory fees, franchise fees, universal service contributions, and right-of-way fees, including any late fees, penalties and interest arising from the foregoing which have not been timely or fully paid related to the Business or the ownership, operation or use of the Transferred Assets for any period on or before the Closing Date; *provided, however*, that this clause (ix) shall not include any filing fees that Buyer is expressly obligated to bear pursuant to Section 6.04(b) or Section 6.04(c);

(x) all Liabilities accruing prior to the Closing under Environmental Laws, including those relating in any way to the environment or natural resources, human health and safety, or Hazardous Materials;

(xi) all Liabilities accruing, arising out of or relating to the ownership, conduct or operation of the Excluded Business or the ownership or use of the Excluded Assets (or any “successor-in-interest”, “de facto merger” or other theories of liability related thereto);

(xii) all Seller Transaction Expenses;

(xiii) all Cure Costs;

(xiv) all Liabilities subject to administrative expense status under section 503(b)(9) of the Bankruptcy Code;

(xv) 50% of all Liabilities with respect to Transfer Taxes;

(xvi) all Liabilities associated with (A) checks that need to be recut or re-issued to pay for prepetition Liabilities after the Petition Date, or (B) written but uncashed checks, or initiated but incomplete wire or ACH transfers;

(xvii) any Liability arising out of any investigation, inquiry, audit, enforcement action, or similar proceeding by a Government Authority primarily related to the operation of the Business, including in connection with the operation of the Transferred Assets, for any period before the Closing Date;

(xviii) all Liabilities for Non-Recurring Credits; and

(xix) all Liabilities set forth on Schedule 2.01(d)(xix).

Section 2.02. Assignment of Certain Transferred Contracts. Notwithstanding any other provision of this Agreement to the contrary, this Agreement shall not constitute an agreement to assign or transfer any Transferred Contract or any claim or right or any benefit arising thereunder or resulting therefrom if an attempted assignment or transfer thereof, without the Consent of a third party (including any Government Authority), would constitute a breach or other contravention thereof or a violation of applicable Law or Order of the Bankruptcy Court and such breach, contravention or violation cannot be overridden by the Sale Order or other related Order of the Bankruptcy Court (and such Consent has not been obtained prior to the Closing Date). Without limitation of the foregoing, Seller Parent shall reasonably consult with (and in good faith consider the comments of) Buyer and its counsel regarding the form of, and in efforts to obtain, Consents pursuant to this Section 2.02; *provided; however*, that, notwithstanding the foregoing, any alteration, amendment, supplement or modification to any such Transferred Contract that would be adverse to Buyer or the Business shall be in form and substance reasonably acceptable to Buyer (any such contract for which such Consent is required, but is not yet obtained, a “**Specified 2.02 Contract**”). If, (x) solely with respect to real property leases under which a Seller Party is a lessee, on the earlier of (i) the Closing Date, (ii) two (2) Business Days prior to the date of entry of an order confirming a chapter 11 plan in the Bankruptcy Cases (the “**Plan Confirmation Date**”), and (iii) two (2) Business Days prior to the date that is 210 days after the Petition Date, and, (y) for Transferred Contracts that are not real property leases under which a Seller Party is a lessee, the earlier of (i) the Closing and (ii) two (2) Business Days prior to the effective date of a chapter 11 plan in the Bankruptcy Cases (the “**Effective Date**”), any such Consent has not been obtained, or if an attempted transfer or assignment thereof would be ineffective or a violation of applicable Law or Order of the Bankruptcy Court then such Contract shall be an Excluded Contract (each, an “**Holdback Contract**”) and shall not be transferred to Buyer at Closing and, Seller Parent shall, and cause the other Seller Parties to, and Buyer will, subject to Section 3.01, (b) and Section 2.02, use reasonable best efforts to enter into a mutually agreeable arrangement (an “**Interim Arrangement**”) under which, until the earlier of: (I) the six (6)-month anniversary following Closing or (II) solely with respect to real property leases under which the Seller Party is a lessee, the earlier of two (2) Business Days prior to the date that is 210 days after the Petition Date and two (2) Business Days prior to the Plan Confirmation Date and (III) with respect to Transferred Contracts that are not real property leases under which the Seller Party is a lessee, two (2) Business Days prior to the Effective Date, (such earlier date of (I), (II), or (III), as applicable, the “**Cut-Off Date**”), (a) Buyer will, in compliance with applicable Law or Order of the Bankruptcy Court, obtain the benefits and assume the obligations and bear the economic burdens associated with such Holdback Contract, solely to the extent such obligations or burdens are Assumed Liabilities, in accordance with this Agreement, including, for example (and without limitation of other similar arrangements being employed instead and in place thereof), by subcontracting, sublicensing, or subleasing such Holdback Contract to Buyer or (b) Seller Parent will enforce for the benefit (and at the expense) of Buyer any and all of such Seller Party’s rights, claims, or benefits against a third party associated with such Holdback Contract and the Seller Parties would promptly pay to Buyer when received all monies or other economic benefit received by them under any such Holdback Contract, claim, right, or benefit (net of the Seller Parties’ reasonable and documented expenses incurred in connection with any assignment or other performance contemplated by this Section 2.02, not to exceed the amounts payable to Buyer with respect to the applicable Holdback Contract); *provided, however*, until the Parties enter into any Interim Arrangement, the applicable

Seller Parties shall comply with the immediately preceding clause (b). Each Party shall bear their respective costs and expenses with respect to the negotiation of and entry into the Interim Arrangements. Notwithstanding the foregoing, Seller Parent shall, and shall cause the other Seller Parties to, use reasonable best efforts to obtain any such Consent affecting any such Holdback Contract prior to the Cut-Off Date, and if such Consent is obtained, such Holdback Contract shall be considered a Transferred Contract and transfer to the Buyer reasonably promptly thereafter. Any (x) amendment to or modification or waiver of any Contract or (y) any monetary consideration to any Person (other than Cure Costs or Excluded Liabilities) in connection with obtaining the Consents contemplated by this Section 2.02 or any Holdback Contract shall require the prior written consent of Buyer.

Section 2.03. Closing. The closing of the sale and purchase of the Transferred Assets and the assumption of the Assumed Liabilities (the “**Closing**”) shall take place by telephone conference and electronic exchange of documents (or, because of recordation purposes originals are needed, then, the exchange of such original documents in recordable form), at 9:00 a.m. (New York City time) on the fifteenth (15th) Business Day following the date (the “**Satisfaction Date**”) upon which all Closing Conditions are satisfied or waived in writing (to the extent permitted by applicable Law) in accordance with Article X (other than those Closing Conditions under this Agreement that by their nature can only be satisfied at the Closing, but subject to the satisfaction or waiver of those Closing Conditions at such time), or on such other date or at such other time or place as the Parties may expressly agree in writing. The date on which the Closing occurs is referred to in this Agreement as the “**Closing Date**.” For all purposes under this Agreement and each other Transaction Agreement, (a) except as otherwise expressly provided in this Agreement or such other Transaction Agreement, all matters at the Closing will be considered to take place simultaneously and (b) the Closing shall be deemed effective as of the Effective Time.

Section 2.04. Designated Contracts, Cure Costs.

(a) **Closing and Payment of Cure Costs.** Attached as Schedule 2.04(a) is a true and correct list of all Executory Contracts related to the Business (excluding the Excluded Contracts set forth on Schedule 2.01(b)(i) as of the date of this Agreement) and Transferred Leases of the Seller Parties, together with Seller Parent’s good faith estimate, as of the Agreement Date, of the Cure Cost for each such Contract or Transferred Lease. Prior to the Bid Deadline, Seller Parent will update or cause to be updated such Schedule 2.04(a) from time to time upon request by Buyer to the extent there are changes to Seller Parent’s good faith estimates set forth therein. If Schedule 2.04(a) at any time does not include an amount for the Cure Cost of any Contract or Transferred Lease, then Seller Parent’s good faith estimate of the Cure Cost for such Contract or Transferred Lease will be deemed to be zero dollars (\$0). At Closing and pursuant to Section 365 of the Bankruptcy Code, and the Sale Order, subject to Sections (b) and 6.10, each Seller Party shall assume and assign to Buyer, and Buyer shall assume from such Seller Party, the Transferred Executory Contracts to which such Seller Party is a party. All Cure Costs shall be paid by Seller Parent, on or before Closing (or, with respect to any Transferred Executory Contract for which a cure objection has not been finally resolved as of the Closing, in accordance with Section 5.05 or any Separated Business Contract, in accordance with Section 6.10) and, in each case, neither Buyer nor any of its Affiliates shall have any Liability therefor (other than to the extent of any Assumed Liabilities, as applicable).

(b) Cure Notice. Promptly following the Bid Deadline and in any event no later than seven (7) days prior to the deadline for parties to file objections to the assumption and assignment of Transferred Contracts to Buyer, including with respect to Cure Costs and/or adequate assurance of future performance, set forth in the Bidding Procedures Order, the Seller Parties shall (i) file (or cause to be filed) with the Bankruptcy Court a list of each Executory Contract and a good faith estimate of the Cure Costs associated with such Executory Contract (such list, the “**Available Contract Schedule**”) and (ii) serve (or cause to be served) written notice (each, a “**Cure Notice**”) to the non-debtor counterparty to each Executory Contract, which notice shall include the Available Contract Schedule.

(c) Undisclosed Contracts. If, at any time prior to the Closing Date, any Seller Party becomes aware that it is a party to an Executory Contract or Transferred Lease that is not listed on the Available Contract Schedule (each, an “**Undisclosed Contract**”), Seller Parent will update the Available Contract Schedule with respect to such Undisclosed Contract and (i) file with the Bankruptcy Court such updated schedule, and (ii) serve a Cure Notice, which notice shall include such updated schedule, to the counterparty to such Undisclosed Contract.

(d) Designation by Buyer. From time to time, on or prior to the Bid Deadline (the “**Designation Deadline**”), Buyer may elect, by written notice to Seller Parent, each Executory Contract or each Transferred Lease, in each case, that is not a Shared Customer Contract that Buyer wishes to be assigned to it at the Closing (each such Executory Contract or Transferred Lease, a “**Transferred Executory Contract**”), and each such Transferred Executory Contract shall thereafter be deemed a Transferred Contract for purposes hereof and be automatically added to Schedule 2.01(a)(iii)(D); *provided, however*, that solely with respect to Undisclosed Contracts discovered following the Bid Deadline, Buyer shall be permitted to designate Undisclosed Contracts as Transferred Executory Contracts until the date that is fourteen (14) days following the date of discovery by Buyer (or notice thereof by the Seller Parties) (and for such Undisclosed Contracts, the “Designation Deadline” shall be such extended date); *provided, further*, that if at any time (and from time to time) prior to the Closing, Buyer and Seller Parent each expressly agree in writing (each in their respective sole discretions), a Transferred Executory Contract or Transferred Lease may be designated as an Excluded Contract (and thereafter shall be deemed to be an Excluded Contract for all purposes hereunder, unless otherwise later agreed by Buyer and Seller Parent). Any Executory Contract or Transferred Lease, in each case, that is not a Shared Customer Contract and is not designated by Buyer in writing as a Transferred Executory Contract on or before the Designation Deadline shall thereupon be deemed an Excluded Contract. Any Shared Customer Contract that subsequently becomes a Separated Business Contract pursuant to Section 6.10, shall, from and after such time as such Shared Customer Contract becomes a Separated Business Contract, thereafter be deemed a Transferred Executory Contract and a Transferred Contract for purposes hereof and be automatically added to Schedule 2.01(a)(iii)(D). From time to time prior to the Designation Deadline, Buyer may elect, by written notice to Seller Parent, to remove any Transferred Executory Contract (other than a Separated Business Contract) from Schedule 2.01(a)(iii)(D) and from and after such date such Executory Contract shall be deemed for all purposes hereunder an Excluded Contract (and shall be thereafter automatically removed from Schedule 2.01(a)(iii)(D)). On or before the Closing, the Seller Parties shall file with the Bankruptcy Court one or more notices of assumption and promptly serve such notice on each applicable counterparty, which notice of assumption shall identify all Transferred Executory Contracts, and shall use their respective reasonable best efforts to cause the Transferred Executory

Contracts to be assumed by the applicable Seller Party and assigned to Buyer pursuant to Section 365 of the Bankruptcy Code; *provided, however*, that no such obligation shall require any Seller Party unless otherwise ordered by the Court to settle any Cure Cost dispute in favor of the third-party counterparty at any amount unacceptable to the Seller Parties (unless such amount shall be reimbursed to such Seller Party by Buyer). Notwithstanding the foregoing, an Executory Contract or Transferred Lease shall not be a Transferred Executory Contract hereunder and shall not be assigned to, or assumed by, any Seller Party if such Executory Contract is validly rejected by a Seller Party, terminated by the other party thereto, or terminates or expires in accordance with its own terms on or prior to the Closing and is not continued or otherwise extended prior to or upon assumption.

(e) Resolution of Cure Disputes. If any objections are timely and properly filed by, or received from, any counterparty in response to a Cure Notice, the Seller Parties, in consultation with Buyer, will use reasonable best efforts to resolve any such objections with such counterparty. If any such cure objection is not consensually resolved or finally determined by the Bankruptcy Court prior to the Closing with respect to any Transferred Executory Contract, so long as Seller Parent appropriately reserves funding for the disputed portion of such Cure Costs pending resolution of such cure objection, subject to entry by the Bankruptcy Court of the Sale Order, Seller Parent shall (or shall cause the applicable Seller Party to) (x) pay (upon either the consensual resolution or final determination by the Bankruptcy Court of such cure objection) to such counterparty an amount thereof and (y) assume and assign such Transferred Executory Contract to Buyer at the Closing and upon either the consensual resolution or final determination by the Bankruptcy Court of such cure objection, Seller Parent shall promptly pay to such counterparty any Cure Costs owing to such counterparty with respect to such Transferred Executory Contract. Without limitation of the foregoing, any alteration, amendment, supplement or modification to the applicable Contract that would be adverse to Buyer or the Business (excluding, any agreement reflecting the agreement of Seller Parent and the third-party counterparty as to the amount of Cure Costs payable under such Contract) shall require Buyer's prior written consent (acting reasonably).

Section 2.05. Withholding. Buyer and any other applicable withholding agent shall be entitled to deduct and withhold from any amounts payable pursuant to this Agreement such amounts as are required to be deducted and withheld with respect to the making of such payment under applicable Law; *provided*, that except in the case of any withholding that would result from a failure to provide the applicable forms required by Section 3.03(a)(vii) at Closing, Buyer shall use commercially reasonable efforts to provide Seller Parent with reasonable written notice at least five (5) Business Days prior to deducting or withholding any amounts pursuant to this Section 2.04, and to cooperate in good faith with the Seller Parties to mitigate, reduce or eliminate any such deduction or withholding to the extent permitted by applicable Law. To the extent any amounts are so deducted or withheld, such amounts shall be treated for all purposes of this Agreement as having been paid to the Person in respect of which such deduction or withholding was made.

Section 2.06. Deposits. Prior to the Closing, either Seller Parent or Buyer may identify and designate, by written notice to the other, any Deposits that would be impractical to transfer, convey, pay over, or otherwise remit to Seller Parent at Closing notwithstanding such Deposit being an Excluded Asset. In such event upon delivery of such written notice, such identified and designated Deposit shall either (at Buyer's option) be (a) deemed a Transferred Asset and shall be

transferred and conveyed to Buyer at the Closing and in connection with such transfer, the Base Price shall be increased by the amount of such Deposit or (b) held by Buyer for the benefit of Seller Parent (or the applicable Seller Party, as designated by Seller Parent) and Buyer shall use reasonable best efforts to (i) transfer, convey and assign such Deposit as reasonably promptly as permitted by Contract and applicable Law after Closing and, as applicable, (ii) segregate the proceeds received from such Deposit in an account for Seller Parent (or the applicable Seller Party, as designated by Seller Parent) to be released as reasonably promptly as permitted after Closing; *provided*, that the Parties agree any Deposits held in accordance with clause (b) shall not increase the Base Price.

ARTICLE III

PURCHASE PRICE

Section 3.01. Aggregate Purchase Price; Closing Statement.

(a) Closing Payment. The aggregate consideration to be paid by Buyer for the sale of all of the Transferred Assets and the obligations of the Seller Parties set forth in this Agreement shall be:

- (i) an amount in cash equal to
 - (A) \$285,000,000 (the “**Base Price**”),
 - (B) plus the amounts of any Deposits that are transferred to Buyer at Closing pursuant to Section 6.05(a) (the “**Closing Deposit Amount**”),
 - (C) minus the Pro Rata Annual Bonus Amount,
 - (D) plus the amounts actually paid to Buyer or its Representatives pursuant to the Expense Reimbursement Agreement (and not returned to any Seller Party of Affiliate thereof) (the “**Expense Reimbursement Amount**”),
 - (E) minus the Budgeted Capex Shortfall (if any),
 - (F) [REDACTED]; and

(ii) the assumption of the Assumed Liabilities (the “**Liabilities Consideration**” and, collectively with the Closing Payment, the “**Aggregate Purchase Price**”).

(b) Closing Statement.

(i) On or before 11:59 pm Eastern Time on the fourth (4th) Business Day following the Satisfaction Date (the “**Measurement Date**”), Seller Parent shall deliver to Buyer (I) a statement, including Seller Parent’s good faith calculations or estimations (as applicable) of (A) the Closing Deposit Amount as of the Effective Time, (B) the Pro Rata Annual Bonus Amount as of the Effective Time, (C) the Expense Reimbursement Amount as of the

Effective Time, (D) Budgeted Capex Shortfall as of the end of the Capex Measurement Period, (E) [REDACTED], and (F) the resulting Closing Payment (and the components thereof) (the “**Estimated Closing Payment**”), in each case, determined in a manner consistent with this Agreement (including the foregoing definitions) and the applicable Seller Parties’ books and records, (II) reasonable supporting calculations and back-up documentation for the foregoing, including a list of the applicable Contracts that Seller Parent will assign, convey and transfer to Buyer on the Closing Date and the Monthly Recurring Revenue associated with each such Contract and (III) the amount due to, and wire instructions for, each Person entitled to receive any payment pursuant to Section 3.03 (collectively, the “**Estimated Closing Statement**”). An illustrative example of the Estimated Closing Statement is set forth as Exhibit J (the “**Sample Statement**”). Unless otherwise agreed by Buyer, the Estimated Closing Statement (and the calculations set forth thereon, as applicable) shall be prepared and compiled in a manner and format that is consistent with the Sample Statement; *provided*, that the values therein shall be based on the financial information of Seller Parent for the time periods set forth in the applicable definitions of Exhibit L. Seller Parent shall reasonably review any comments proposed by Buyer with respect to the Estimated Closing Statement, and will consider, in good faith, any appropriate changes to the components of the Closing Payment prior to Closing; *provided, however*, that in the event that any disputes with respect thereto remain, (I) such dispute shall not delay the Closing and the calculations set forth in the Estimated Closing Statement delivered by Seller Parent (subject to any changes that have thereafter been agreed upon) shall govern the payments to be made at the Closing (subject to the other provisions of this Article III, including reduction of the amount paid to Seller Parent at Closing by the Adjustment Escrow Amount), (II) Buyer shall provide, prior to the Closing Date, a written statement (“**Buyer’s Initial Notice of Disagreement**”) its good faith estimate of the Closing Payment (“**Buyer’s Estimated Closing Payment**”) and a breakdown of the amounts, items, and calculations thereof, and (III) at the Closing, an amount (the “**Adjustment Escrow Amount**”) equal to the difference between the Estimated Closing Payment (subject to any changes that have been agreed upon in accordance herewith), on the one hand, and the Buyer’s Estimated Closing Payment, on the other hand, shall be deposited into an escrow account (the “**Adjustment Escrow Account**”), at the Closing.

(ii) Within ten (10) Business Days following the Closing Date (the “**Crystallization Date**”), Buyer may deliver written notice (“**Notice of Disagreement**”) to Seller Parent of Buyer’s disagreement with the Estimated Closing Statement and any amount, item or calculation set forth therein (such disputed amount(s), item(s) or calculation(s), “**Disputed Items**”). If Buyer does not deliver a Notice of Disagreement on or prior to the Crystallization Date, then Buyer’s Initial Notice of Disagreement shall be deemed the Notice of Disagreement, and any disagreement with the Estimated Closing Statement and/or any amount, item or calculation therein shall be deemed to be Disputed Items. Any amounts or items comprising the Closing Payment set forth in the Estimated Closing Statement that are not set forth in or contemplated as disputed in the Notice of Disagreement (or Buyer’s Initial Notice of Disagreement) shall be binding on the Parties and not be subject to further review under this Section 3.01. Following the delivery of a Notice of Disagreement (or Buyer’s Initial Notice of Disagreement), the Parties shall, in good faith and acting reasonably, seek to resolve any differences that they may have with respect to the Disputed Items promptly, and in any event, within the thirty (30) day period following the Crystallization Date (the “**Resolution Period**”). Any Disputed Items resolved in writing between Buyer and Seller Parent during the Resolution Period shall be final and binding with respect to such items, and if Seller Parent and Buyer agree

in writing on the resolution of each Disputed Item specified in the Notice of Disagreement, the amounts of such Disputed Items so determined shall be final and binding on the Parties for all purposes hereunder.

(c) Accounting Firm Dispute Resolution.

(i) If upon the expiration of the Resolution Period, there are any unresolved Disputed Items for which the Disputed Item Percentage for such unresolved Disputed Item is (A) less than or equal to 10%, such unresolved Disputed Item shall be deemed to be the average of the Greater Disputed Item Amount and the Lesser Item Amount for such unresolved Disputed Item, and such determination shall be deemed final and binding upon the Parties hereunder, or (B) greater than 10%, then reasonably promptly following the expiration thereof, Buyer and Seller Parent shall mutually engage and submit such unresolved Disputed Item(s) (the “**Specified Unresolved Disputed Items**”) to, and the same shall be finally resolved in accordance with the provisions of this Agreement by, Ernst & Young or such other nationally-recognized accounting firm mutually acceptable to Buyer and Seller Parent (the “**Accounting Firm**”). Buyer and Seller Parent shall each use reasonable best efforts to cause the Accounting Firm to resolve any Specified Unresolved Disputed Items as soon as practicable (but no later than forty (40) days after its acceptance of its appointment), and based solely on written presentations of Buyer, on the one hand, and Seller Parent, on the other hand, submitted to the Accounting Firm (and the other Party) and not by independent review, and to set forth in a written statement its final determination of such Specified Unresolved Disputed Item(s). All written submissions by the Parties shall be delivered to the Accounting Firm (and the other Party) no later than thirty (30) days following the Accounting Firm’s acceptance of its appointment (and thereafter, solely at the Accounting Firm’s request).

(ii) The Accounting Firm shall consider only Specified Unresolved Disputed Items on which the Buyer and the Seller Parent have been unable to agree. The scope of the disputes to be resolved by the Accounting Firm shall be limited to correcting mathematical errors and determining whether the Specified Unresolved Disputed Items were determined in accordance with this Agreement. The determination of the Accounting Firm with respect to any Specified Unresolved Disputed Item shall be no greater than the greatest amount of such Specified Unresolved Disputed Item, and no less than the lowest amount of such Specified Unresolved Disputed Item, in each case, as proposed by Seller Parent or Buyer. The amount of any Specified Unresolved Disputed Item, as finally determined pursuant to this Section 3.01(c), is referred to as the “**Final Specified Disputed Item Amount**”. The determination of the Accounting Firm shall be conclusive and binding upon the parties hereto and shall not be subject to appeal or further review absent fraud or manifest error. In acting under this Agreement, the Accounting Firm shall function solely as an expert and not as an arbitrator; *provided*, that the Accounting Firm shall have the power to conclusively resolve differences in Specified Unresolved Disputed Items as specified in this Agreement. If, before the Accounting Firm renders its determination with respect to the Disputed Items in accordance with this Section 3.01(c), (A) Seller Parent notifies Buyer of its agreement with any items in the Notice of Disagreement, (B) Buyer notifies Seller Parent of its agreement with any items in the Estimated Closing Statement, or (C) the Parties otherwise reach mutual agreement with respect to any Specified Unresolved Disputed Items, then in each case, such items so agreed will be conclusive and binding on the Parties upon such notice and shall become the Final Specified Disputed Item Amount for such Specified Unresolved Disputed Item.

(iii) Each Party shall bear its own costs and expenses in connection with the resolution of such Specified Unresolved Disputed Items by the Accounting Firm. The fees and expenses of the Accounting Firm, shall be borne by Seller Parent and Buyer in inverse proportion as they may prevail on the matters resolved by the Accounting Firm, which proportionate allocation shall be calculated on an aggregate basis based on the relative dollar values of the amounts in dispute and shall be determined by the Accounting Firm at the time the determination of such firm is rendered on the merits of the matters submitted.

(d) Access. Buyer and the Seller Parties will, during the period from and after the date of delivery of the Estimated Closing Statement through the resolution of any Disputed Item (including any Specified Unresolved Disputed Item) pursuant to this Section 3.01, to afford the other party and its Representatives reasonable access, during normal business hours and upon reasonable prior notice, to the personnel, properties, books and records of the Business and to any other information reasonably requested for purposes of preparing and reviewing the calculations contemplated by this Section 3.01.

(e) Closing Payment Adjustment.

(i) The amount of the Closing Payment, as determined utilizing the Final Specified Disputed Item Amounts for the applicable Specified Unresolved Disputed Items is referred to herein as the “**As Adjusted Closing Payment**”. The difference between (x) the amount of the Closing Payment set forth in the Estimated Closing Statement (subject to any changes that were agreed upon prior to the Closing), minus (y) the amount deposited into the Adjustment Escrow Account at Closing is referred to herein as the “**Paid Closing Payment**”.

(ii) To the extent the As Adjusted Closing Payment exceeds the Paid Closing Payment (such excess, the “**Positive Adjustment Amount**”), then promptly (but in any event within five (5) Business Days after the final determination of all Specified Unresolved Disputed Items), the Parties shall delivery a Joint Written Instructions to the Escrow Agent releasing to (A) Seller Parent, the lesser of (x) the Positive Adjustment Amount and (y) all funds in the Adjustment Escrow Account and (B) Buyer, the funds (if any) remaining in the Adjustment Escrow Account after giving effect to clause (A). To the extent the Positive Adjustment Amount is greater than the amount in the Adjustment Escrow Account, Buyer shall pay to Seller Parent, by wire transfer of immediately available funds, and amount equal to such surplus.

(iii) To the extent the Paid Closing Payment equals the As Adjusted Closing Payment, then promptly (but in any event within five (5) Business Days after the determination of all Specified Unresolved Disputed Items), the Parties shall delivery a Joint Written Instructions to the Escrow Agent releasing to Buyer all funds in the Adjustment Escrow Account.

(iv) If the Paid Closing Payment exceeds the As Adjusted Closing Payment (such excess if any, the “**Negative Adjustment Amount**”), then promptly (but in any event within five (5) Business Days after the determination of all Specified Unresolved Disputed Items), (x) the Parties shall delivery a Joint Written Instructions to the Escrow Agent releasing to Buyer all funds in the Adjustment Escrow Account and (y) Seller Parent shall pay, or cause to be

paid, promptly by wire transfer of immediately available funds, an amount equal to such Negative Adjustment Amount.

(f)

(i)

(ii)

Section 3.02. Closing Payment Deposit; Letters of Credit.

(a) On or prior to the Agreement Date, (i) Buyer shall immediately deposit (or shall have deposited) with Citibank N.A., in its capacity as escrow agent (the “**Escrow Agent**”) the sum of \$2,850,000 by wire transfer of immediately available funds (the “**Deposit Escrowed Amount**”) into an escrow account (the “**Deposit Escrow Account**”), to be released by the Escrow Agent and delivered to either Buyer or Seller Parent (or its designee) in accordance with this Agreement and the provisions of the Escrow Agreement and (ii) has delivered to Seller Parent one or more Letters of Credit in an aggregate face amount equal to the Letter of Credit Amount (final drafts of which have been provided to Seller Parent at least two (2) Business Days prior to the Agreement Date) and shall maintain such Letters of Credit for the benefit of Seller Parent until the earlier of (A) the Closing, (B) the termination of this Agreement in accordance with Article XI (other than a Specified Termination) or (C) the payment in full of the Specified Reverse Termination Amount in accordance with the terms of this Agreement and the Letters of Credit following a Specified Termination (such earlier date, the “**LC Outside Date**”). The Letters of Credit shall provide that the issuer of such Letters of Credit shall honor Seller Parent’s request to draw on the Letters of Credit, by Seller Parent upon delivery by Seller Parent to the issuer of the Letter of Credit of the certification signed by Seller Parent, substantially in the form set forth on Exhibit K (the “**LC Draw Certification**”); *provided*, that Seller Parent is so entitled to the Specified Reverse Termination Amount pursuant to this Section 3.02(a), Section 3.02(b), and Section 11.03(b) (and solely if entitled thereunder). Each Letter of Credit shall have an initial term of one (1) year, and shall provide for the automatic extension thereof on each six (6)-month anniversary thereafter unless the applicable issuing bank advises Seller Parent in writing at least sixty (60) days prior to the then current expiration date of its intention not to extend such letter of credit for any additional period, in which case, if the then current expiration date is on or prior to the LC Outside Date, Seller Parent may draw the full amount of such letter of credit before the then applicable expiration date and thereupon deposit such amounts into the Deposit Escrow Account (upon which time such amounts shall become part of the Deposit Escrowed Funds for all purposes hereunder). Buyer shall not, and shall not permit, any Letter of Credit to be amended or otherwise modified, without the prior written consent of Seller Parent. Upon the occurrence of the LC Outside Date, Seller Parent shall, and shall cause its Subsidiaries and Affiliates to, cooperate with Buyer to return the original Letters of Credit to Buyer (or a designee thereof) for further delivery to the issuers of the Letters of Credit.

(b) Seller Parent will, as the only condition to any draw under the Letters of Credit (other than being entitled to do so hereunder), deliver the LC Draw Certification to the issuer of such Letter of Credit. All fees and costs associated with the Letters of Credit shall be

paid by Buyer and in no event may the issuer of the Letters of Credit reduce the Letter of Credit Amount by deducting therefrom any fees incurred by Buyer.

(c) The Deposit Escrowed Amount, together with all accrued investment income thereon (if any) (the “**Deposit Escrowed Funds**”), shall be distributed as follows upon the earliest to occur of the following: (i) to Seller Parent (if applicable) upon the Closing; (ii) to Buyer upon the valid termination of this Agreement, pursuant to and in accordance with Section 11.03(c); or (iii) Seller Parent upon the valid termination of this Agreement, pursuant to and in accordance with Section 11.03(b).

Section 3.03. Certain Closing Deliverables. At the Closing:

(a) Seller Parent shall deliver or cause to be delivered to Buyer the following:

(i) a counterpart of the Joint Written Instructions, duly executed by Seller Parent, directing the Escrow Agent to deliver to Seller Parent (or its designee) the Deposit Escrowed Funds;

(ii) a counterpart of the Bill of Sale, Assignment and Assumption Agreement for the Transferred Assets (other than the Transferred Leases), in the form attached hereto as Exhibit B (the “**Bill of Sale, Assignment and Assumption Agreement**”), duly executed by the applicable Seller Parties;

(iii) a counterpart of the Assignment and Assumption Agreement for Transferred Leases, in the form attached hereto as Exhibit C (the “**Transferred Leased Property Assignment and Assumption Agreement**”), duly executed by the applicable Seller Parties;

(iv) a counterpart of the IP Assignment Agreement, in the form attached hereto as Exhibit D (the “**IP Assignment Agreement**”), duly executed by the applicable Seller Parties;

(v) a counterpart to the Transition Services Agreement, in substantially the form attached hereto as Exhibit E (updated to reflect the addition of the applicable services schedules thereto as mutually agreed) (the “**TSA**”), duly executed by the applicable Seller Parties;

(vi) the officer’s certificate required to be delivered pursuant to Section 6.04(a);

(vii) an original copy of the special or limited warranty deed (as customary in the applicable jurisdiction) (the “**Deed(s)**”), in recordable form and duly executed by the applicable Seller Parties, conveying each Transferred Owned Real Property to Buyer, and in form reasonably satisfactory to Buyer, subject only to matters that are Permitted Liens, together with duly executed Transfer Tax or sales disclosure forms, if applicable;

(viii) a duly executed IRS Form W-9 from each Seller Party (or its regarded owner for U.S. federal income tax purposes) selling, conveying, or transferring any Transferred Assets;

(ix) all other instruments of conveyance and transfer, in form and substance reasonably acceptable to Seller Party and Buyer, as may be necessary to convey the Transferred Assets to Buyer.

(b) Buyer shall deliver or cause to be delivered to Seller Parent the following:

(i) an amount equal to the Closing Payment less (x) the Deposit Escrowed Amount and (y) the Adjustment Escrow Amount, by wire transfer of immediately available funds to an account or accounts as directed by Seller Parent, on behalf of itself and the Seller Parties, in writing, prior to the Closing Date; *provided*, that the Parties acknowledge that neither Buyer nor any of its Affiliates, shall have any Liability or other obligation with respect to the Closing Payment once paid in accordance with the wiring instructions provided in writing by Seller Parent;

(ii) a counterpart of the Joint Written Instructions, duly executed by Buyer, directing the Escrow Agent to deliver to Seller Parent (or its designee) the Deposit Escrowed Funds;

(iii) all required Transfer Tax stamps and transfer forms (if any), unless under applicable Law such Transfer Tax stamps or duly stamped transfer forms are only available post-Closing (in which case such Transfer Tax stamps or duly stamped transfer forms shall be delivered to Seller Parent promptly and in any event no later than ten (10) Business Days after receipt thereof by Buyer);

(iv) a counterpart of the Bill of Sale, Assignment and Assumption Agreement, duly executed by Buyer;

(v) a counterpart of the Transferred Leased Property Assignment and Assumption Agreement, duly executed by Buyer;

(vi) a counterpart of the IP Assignment Agreement, duly executed by Buyer;

(vii) a counterpart to the TSA, duly executed by Buyer and each of its applicable Affiliates;

(viii) the officer's certificate required to be delivered to Seller Parent pursuant to Section 9.02; and

(ix) all other instruments of conveyance and transfer, in form and substance reasonably acceptable to Seller Parent and Buyer, as may be necessary to convey the Transferred Assets to Buyer.

Section 3.04. Purchase Price Allocation. Buyer and Seller Parent agree (a) that the Transactions shall not be treated as giving rise to any deemed payments to Buyer in exchange for Buyer assuming any liabilities under this Agreement or in respect of deferred revenue or prepaid amounts and (b) to allocate the Aggregate Purchase Price and all other relevant items treated as consideration for U.S. federal income Tax purposes among the Transferred Assets in accordance

with Section 1060 of the Code and the Treasury Regulations promulgated thereunder. Reasonably in advance of the Closing Date, Buyer shall use commercially reasonable efforts to deliver to Seller Parent its proposed allocation for review and comment; *provided* that Buyer shall use the information reasonably available to it and as provided by Seller Parent and the delivery of such proposed allocation shall not be construed as a condition to Closing. Buyer and Seller Parent shall mutually cooperate to resolve any differences in good faith, with the objective of having an agreed tentative allocation at least three (3) Business Days prior to the Closing. No later than ten (10) Business Days after the delivery of the Estimated Closing Statement, Buyer shall deliver to Seller Parent a final allocation of the Aggregate Purchase Price and all other relevant items treated as consideration for U.S. federal income Tax purposes as of the Closing Date among the Transferred Assets determined in a manner consistent with the tentative allocation, with appropriate adjustments proposed by Buyer or Seller Parent in the interim based on new available information (the “**Purchase Price Allocation**”). Seller Parent shall provide Buyer with any comments to the Purchase Price Allocation within five (5) days after the date of receipt by Seller Parent. If Seller Parent does not deliver any written notice of objection to the Purchase Price Allocation within such five (5)-day period, the Purchase Price Allocation shall be final, conclusive and binding on the Parties. If a written notice of objection is timely delivered to Buyer, Seller Parent and Buyer will negotiate in good faith for a period of ten (10) Business Days to resolve such dispute (the “**Allocation Dispute Resolution Period**”). If, during the Allocation Dispute Resolution Period, Seller Parent and Buyer resolve their differences in writing as to any disputed amount, such resolution shall be deemed final and binding with respect to such amount for the purpose of determining that component of the Purchase Price Allocation. In the event that Seller Parent and Buyer do not resolve all of the items disputed in the Purchase Price Allocation prior to the end of the Allocation Dispute Resolution Period, each party shall be entitled to use their own Purchase Price Allocation. If the Parties agree on a Purchase Price Allocation, (i) any subsequent adjustments to the Aggregate Purchase Price for U.S. federal income Tax purposes shall be allocated in a manner consistent with the Purchase Price Allocation as finally determined hereunder and (ii) none of the Parties shall take any position inconsistent with the Purchase Price Allocation on any Tax Return or in any audit or Tax proceeding, unless otherwise required by a final determination by a Government Authority; provided, however, that no Party shall be unreasonably impeded in its ability and discretion to negotiate, compromise or settle any Tax audit, claim or similar proceedings in connection with the Purchase Price Allocation. Notwithstanding any other provision of this Agreement, the terms and provisions of this Section 3.04 shall survive the Closing without limitation.

ARTICLE IV

REPRESENTATIONS AND WARRANTIES OF SELLER PARENT

Seller Parent hereby represents and warrants to Buyer that, except as set forth in the Disclosure Schedules:

Section 4.01. Formation and Authority of the Seller Parties; Enforceability. Each Seller Party is a corporation, limited partnership, limited liability company, or other entity duly incorporated, formed, or organized, validly existing and, to the extent legally applicable, in good standing under the Laws of its jurisdiction of incorporation, formation, or organization. Subject to the entry of the Bidding Procedures Order and the Sale Order, Seller Parent has (and each other

Seller Party will have prior to the Closing) the requisite corporate, limited partnership, limited liability company, or other appropriate power to execute, deliver and perform its obligations under the Seller Transaction Agreements (including the consummation of the Seller Transactions) to which it is a party. Each Seller Party has the requisite corporate or other power to operate the Business as now conducted and is duly qualified as a foreign corporation, limited partnership, limited liability company, or other organization to do business, and to the extent legally applicable, is in good standing, with respect to the Business, in each jurisdiction in which the character of its owned, operated, or leased properties, or the nature of its activities makes such qualification necessary, except for jurisdictions where the failure to be so qualified or in good standing has not had and would not reasonably be expected to, individually or in the aggregate, have a Material Adverse Effect. The execution, delivery, and performance by each Seller Party of the Seller Transaction Agreements (including the consummation of the Seller Transactions) to which it is a party have been (or, in the case of a Seller Party other than Seller Parent, will be prior to the Closing) duly authorized by all requisite corporate or organizational action on the part of such Seller Party. Subject to the entry of the Bidding Procedures Order and the Sale Order, this Agreement has been duly executed and delivered by Seller Parent, and upon execution and delivery thereof, the other Seller Transaction Agreements will be duly executed and delivered by the Seller Parties party thereto, and (assuming due authorization, execution and delivery thereof by the other parties hereto and thereto) this Agreement constitutes, and upon execution and delivery thereof, the other Seller Transaction Agreements will constitute, legal, valid and binding obligations of the Seller Parties party thereto, enforceable against the Seller Parties party thereto in accordance with their respective terms, subject to the Bankruptcy and Equity Exception.

Section 4.02. No Conflict. Provided that all Consents, waivers or other actions listed on Schedule 4.02 or described in Section 9.06 (including the Government Approvals) have been obtained or satisfied, the execution, delivery, and performance by the Seller Parties of the Seller Transaction Agreements do not and will not:

(a) violate or conflict with the certificate or articles of incorporation or bylaws or similar organizational documents of any of the Seller Parties;

(b) violate any Law or Order applicable to the Seller Parties or the Business (including Privacy Laws);

(c) violate, conflict with, result in a breach of, or constitute a violation or default (or any event that, with notice or lapse of time or both would constitute a default) under, or give rise to any right to terminate, cancel, or accelerate, or result in a loss of a material benefit under, any Material Contract; or

(d) result in the creation of any Lien (other than a Permitted Lien) on any properties or assets of any Seller Party;

except, in the case of clauses (g), (g), or (g), as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole.

Section 4.03. Consents and Approvals. The execution, delivery and performance by the Seller Parties of the Seller Transaction Agreements do not and will not require any Consent, waiver, or other action by, or any filing with, or notification to, any Government Authority by any Seller Party, except (a) the approval of the Bankruptcy Court, (b) the Government Approvals, (c) in connection with applicable filing, notification, waiting period, or approval requirements under applicable Antitrust Laws, Communications Laws, the DPA and BTOP Grants, (d) where the failure to obtain such Consent or waiver, or to take such action or make such filing or notification in each case, would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, or (e) as may be necessary as a result of any facts or circumstances relating to Buyer or Buyer's Affiliates.

Section 4.04. Financial Information; Absence of Undisclosed Liabilities.

(a) Schedule 4.04(a) sets forth true and complete copies of (i) the audited consolidated balance sheet and related statements of income and cash flows of Seller Parent for the fiscal year ended December 31, 2023 (collectively, the "**Audited Financial Statements**"), (ii) the unaudited consolidated balance sheet and related statements of income and cash flows of Seller Parent for the twelve (12) month period ended December 31, 2024, and (iii) the unaudited consolidated balance sheet (the "**Latest Balance Sheet**") and related statements of income and cash flows of Seller Parent for the three (3) month period ended March 31, 2025 (the "**Balance Sheet Date**" and the balance sheets and related statements referred to in clauses (ii) and (iii), collectively, the "**Unaudited Financial Statements**" and, together with the Audited Financial Statements, the "**Financial Statements**"). The Financial Statements (A) have been prepared based on the books and records of Seller Parent and the Seller Parties, (B) have been prepared in accordance with GAAP, and (C) present fairly, in all material respects, the financial condition and results of operation of the Business as of the respective dates and for the respective periods presented, subject to (I) in the case of Unaudited Financial Statements, the absence of notes (as applicable), which are not, individually or in the aggregate, material in amount or nature to the Business taken as a whole, or the absence of recurring or other year-end adjustments, and (II) the fact that the Financial Statements are on a consolidated basis and include the effects of each Excluded Business to the extent that the Seller Parties (or their respective Subsidiaries) owned or otherwise conducted such business as of the applicable date or for the periods covered thereby.

(b) Other than (i) to the extent set forth in the Latest Balance Sheet, (ii) as set forth in Schedule 4.04(b), (iii) Liabilities incurred in the Ordinary Course of Business since the Balance Sheet Date (none of which is a Liability for violation of Law, breach of Contract, tort, infringement, or misappropriation), (iv) Liabilities by Seller Parties pursuant to and in accordance with this Agreement, (v) Excluded Liabilities, and (vi) Liabilities that would not reasonably be expected to individually or in the aggregate, be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole, or that would otherwise prevent or materially impair or materially delay the ability of the Seller Parties to consummate the Seller Transactions or otherwise perform their obligations under the Seller Transaction Agreements, there are no Liabilities of the Business of any nature, whether or not any such Liability would be required to be reflected on, reserved against or otherwise described in a balance sheet prepared in accordance with GAAP.

Section 4.05. Absence of Certain Changes or Events. Except (in the case of Section 4.05(a) and 4.05(c)), (a) as a result of the Bankruptcy Cases, (b) in connection with the wind-down of the PA Business or (c) as contemplated by the Transaction Agreements or in connection with the preparation for sale and marketing of the Business, the IL Divested Business, or the MO Divested Business, the negotiation and execution of the Transaction Agreements, or the consummation of the Transactions or the transactions contemplated by the IL Divestiture APA or the MO Divestiture APA, since the Balance Sheet Date through the Agreement Date:

(a) The Seller Parties have conducted the Business in all material respects in the Ordinary Course of Business and in a manner consistent with past practices, including using reasonable best efforts to preserve: (i) the Seller Parties' present business organization and (ii) the Seller Parties' present relationships with customers, suppliers and others having business dealings with the Seller Parties, in each case, to the extent related to the Business.

(b) There has not been any change, event, occurrence, effect, circumstance or development, actually or threatened, which has had, or would reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

(c) Except as set forth on Schedule 4.05(c), no Seller Party has taken any action that, if taken in such time period, would constitute a breach of the covenants set forth in (g) or require Buyer's consent to take such (or omit to take) action had such section been in effect from and after the Balance Sheet Date.

Section 4.06. Absence of Litigation. Since the Lookback Date, other than the Bankruptcy Cases and the proceedings arising therefrom, no Actions are pending or threatened in writing or, to the Knowledge of Seller Parent, verbally, against the Seller Parties (with respect to the Business and the Transferred Assets), in each case, that would reasonably be expected to individually or in the aggregate, be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole, or that would otherwise prevent or materially impair or delay the ability of the Seller Parties to consummate the Seller Transactions.

Section 4.07. Compliance with Laws; Permits.

(a) None of the Seller Parties is, or since the Lookback Date has been, in violation of any Laws, Orders, or BTOP Grants applicable to the conduct of the Business, including any Communication Laws, except (a) for such past noncompliance as has been remedied and imposes no continuing current or future Liabilities or costs on any Seller Party or with respect to any Transferred Assets, the Assumed Liabilities or the Business taken as a whole, and (b) where the failure to be in compliance would not reasonably be expected to be material to any of the Transferred Assets, Assumed Liabilities or the Business taken as a whole. Since the Lookback Date, neither Seller Parent nor any of its Subsidiaries has received any written notice (or, to the Knowledge of Seller Parent, verbal notice) of or been charged with the violation of any Laws or alleging any actual or pending Liability arising under any applicable Law that individually or in the aggregate, would reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole.

(b) Schedule 4.07(b) lists all material Communications Permits required in connection with the operation of the Transferred Assets and the Business as currently operated on the Agreement Date. All material Communications Permits, (i) are in full force and effect and validly issued, (ii) have not been suspended, canceled, revoked or modified in any manner, and there is no Action pending or threatened that seek the revocation, cancellation, suspension or modification thereof, and (iii) are not subject to any conditions or requirements that have not been imposed generally upon communications permits in the same service, unless such conditions or requirements are set forth on the face of the applicable Communication Permits, in each case, as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect. To the Knowledge of Seller Parent, since the Lookback Date, there has not been any event, condition or circumstance that would preclude any such material Communications Permit from being renewed in the Ordinary Course of Business (to the extent that such Communications Permit is renewable by its terms).

(c) Schedule 4.07(c) sets forth a true and complete list of the material Transferred Permits possessed by the Seller Parties. There is no application pending before the FCC, a State PUC or any other Government Authority relating to the Transferred Permits or the operation of the Transferred Assets. None of the Seller Parties is in default under or is currently violating in any respect any material Transferred Permit, and no event has occurred which, with notice or the lapse of time or both, would constitute a default or violation of any material Transferred Permit, except where such default or violation would not, individually or in the aggregate, have a Material Adverse Effect.

Section 4.08. Certain Business Practices.

(a) None of the Seller Parties, nor any of their respective directors, managers, officers, or, to the Knowledge of Seller Parent, any employees (acting in their capacities as such), agents, or representatives acting for or on behalf of the Seller Parties, has, with respect to the operation of the Business, since the Lookback Date offered, paid, promised to pay, or authorized the payment of any money or any other thing of value to any Person (i) with the intention of inducing improper conduct on the part of the recipient, (ii) acceptance of which would violate the policies of the recipient's employer or cause the recipient to breach a duty owed to his or her employer, or (iii) to otherwise secure an undue or improper advantage in violation of any applicable Anti-Corruption Law, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole.

(b) None of the Seller Parties, nor any of their respective directors, managers, officers, or, to the Knowledge of Seller Parent, employees (acting in their capacities as such), agents, or any representatives acting for or on behalf of the Seller Parties (i) has been or is a Sanctioned Person; or (ii) has, with respect to the operation of the Business, since April 24, 2019, transacted business with or for the benefit of a Sanctioned Person; or (iii) since the Lookback Date, with respect to the operation of the Business, otherwise violated applicable Sanctions or Ex-Im Laws, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole.

(c) To the Knowledge of Seller Parent, in the last five (5) years, the Seller Parties have not been the subject of any allegation, voluntary disclosure, investigation, prosecution or enforcement action related to any Anti-Corruption Laws, Ex-Im Laws, or Sanctions, or relevant policies, procedures, and internal controls related to the foregoing with respect to the Business, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole.

Section 4.09. Intellectual Property; Privacy and Data Security.

(a) Schedule 4.09(a) sets forth all Business Registered IP included in the Transferred Assets and the jurisdiction(s) in which any such Business Registered IP has been issued or registered or in which any application for such issuance and registration has been filed. All of the material Business Registered IP included in the Transferred Assets is subsisting, and, to the Knowledge of Seller Parent, valid, and enforceable. None of the Seller Parties, nor the operation of the Business, infringe, misappropriate, or otherwise violate, or have since the Lookback Date infringed, misappropriated, or otherwise violated, the Intellectual Property of any Person. The Seller Parties exclusively possess all right, title, and interest to, or have a valid and enforceable right to use, all material Intellectual Property used in or necessary for the conduct of the Business, free and clear of all Liens, other than Permitted Liens, and, subject to the terms of this Agreement and the other Transaction Agreements, all such Intellectual Property that is material to the Business is included in the Transferred Assets and shall be owned or available for use by Buyer immediately following the Closing on the same basis and same terms as owned or available for use by the Seller Parties in connection with the Business immediately prior to the Closing, except with respect to Intellectual Property licensed to the Seller Parties under any third-party license agreements of which Buyer elects not to take assignment.

(b) Since the Lookback Date, none of the Seller Parties have received any written complaint, claim, notice or demand from any Person alleging that any Seller Party or the operation of the Business infringes, misappropriates, or otherwise violates any Intellectual Property of any Person or challenging the ownership or use by any Seller Party of, or the validity, enforceability, or registrability of, any material Business Intellectual Property included in the Transferred Assets. There are no Actions pending or threatened in writing against any Seller Party alleging that any Seller Party or the operation of the Business infringes, misappropriates, or otherwise violates any Intellectual Property of any Person, in each case, that would reasonably be expected to individually or in the aggregate, be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole, or that would otherwise prevent or materially impair or delay the ability of the Seller Parties to consummate the Seller Transactions.

(c) To the Knowledge of Seller Parent, as of the Agreement Date, no Person is engaging in any activity that infringes, misappropriates, or otherwise violates any Business Intellectual Property included in the Transferred Assets.

(d) The Business Systems included in the Transferred Assets are functional and operate and run in a reasonable business manner and are sufficient in all material respects for the current needs of the Business, including as to capacity and ability to meet current peak volumes and anticipated volumes in a timely manner, and the Seller Parties maintain reasonable backup and disaster recovery plans and procedures with respect to the Business Systems included in the

Transferred Assets and the data stored or processed thereby. Since the Lookback Date, there have been no material security breaches, malfunctions, data losses, outages, unavailability or failures of the Business Systems included in the Transferred Assets.

(e) The Seller Parties take and have taken commercially reasonable steps to maintain the confidentiality of all material trade secrets and confidential information and to secure ownership of material Intellectual Property developed on their behalf. All material Intellectual Property developed by past or current employees, consultants, or independent contractors of any Seller Party in the scope of their employment or engagement either vested in such Seller Party by operation of Law or has been assigned to such Seller Party under a written agreement and each Person who has been provided, or with access to, any material trade secrets or confidential information of the Business or any of the Seller Parties has signed an agreement with reasonable confidentiality obligations and use restrictions or is under a legally-binding duty of confidentiality with respect to the same. To the Knowledge of Seller Parent, no such employee, consultant, or independent contract is in violation of any such agreement or duty and there has been no unauthorized disclosure of any such trade secrets or information.

(f) The Seller Parties maintain and have maintained policies and procedures regarding data Processing and have reasonable safeguards in place reasonably designed to (i) protect Personal Data in their possession or under their control against loss, theft, or unauthorized use or disclosure and (ii) ensure that the operation of the Business is in compliance with all Privacy Laws in all material respects. There has been no alleged or actual material unauthorized access to or use of, or material breach of the security of, any Personal Data, payment card information, confidential or proprietary data or any other material information Processed by or on behalf of the Seller Parties (or any acquisition, use, loss, destruction, compromise, or disclosure thereof). None of the Seller Parties have received any written notice of any claims of, or, to the Knowledge of Seller Parent, been charged with, the violation of any Privacy Laws, that individually or in the aggregate, would reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business, taken as a whole.

(g) The Seller Parties comply, and have, since the Lookback Date, complied, in all material respects with all of their policies and procedures regarding data Processing and all Privacy Laws and applicable provisions of any contract with respect to data privacy, data security, or consumer protection, including the Seller Parties' written internal and external-facing privacy policies. To the Knowledge of Seller Parent, no Seller Party, with respect to the Transferred Assets, the Assumed Liabilities or the Business, has been required to give notice to any customer, supplier, payment card issuer, financial institution, Government Authority, data subject, or other Person of any actual or alleged data security breaches, incidents, or failures or any material noncompliance pursuant to any applicable Laws or applicable provisions of any contract with respect to data privacy, data security, or consumer protection. Immediately after the Closing, to the maximum extent permitted by the Bankruptcy Code and applicable Law (including Privacy Laws and the privacy policies and notices of the applicable Seller Party in effect at the time of collection of the Personal Data included in the Transferred Assets), Buyer shall have substantially the same rights with respect to Personal Data included in the Transferred Assets and Processed by or on behalf of the Seller Parties in connection with the Business as the Seller Parties have immediately prior to the Closing.

(h) With respect to any software licensed on an “open source” or “freeware” basis that is bundled with, embedded in, linked to, or otherwise integrated with any software included in the Business Intellectual Property included in the Transferred Assets (i) the Seller Parties are and have been in material compliance with all applicable licenses with respect thereto, and (ii) none of such owned software included in the Business Intellectual Property included in the Transferred Assets embeds, incorporates, links to, or otherwise uses or interacts with any such open source software or freeware in a manner or relation that requires (or conditions the grant of any rights upon) any distribution (or re-distribution), disclosure, or licensing of, or any licensee being permitted to modify, make derivative works of, or reverse engineer, any proprietary software included in the Business Intellectual Property included in the Transferred Assets (including any source code thereto), create obligations for the Seller Parties to grant, or purport to grant, to any third party any rights or immunities under any Business Intellectual Property included in the Transferred Assets (including any patent non-asserts or patent licenses), or impose any economic limitations on the Seller Parties’ commercial exploitation thereof. No Person other than the Seller Parties (or their contractors engaged to provide software development services and that are subject to written agreements with reasonable confidentiality obligations and use restrictions with respect to software code) is in possession of, or has been granted any current or contingent license or other right with respect to, any source code included in the Business Intellectual Property included in the Transferred Assets, and no such source code has been disclosed, licensed, released, distributed, escrowed or made available to or for any Person and no Person has been granted any rights thereto or agreed to disclose, license, release, deliver, or otherwise grant any right thereto under any circumstance.

Section 4.10. Environmental Matters.

(a) Except as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business, taken as a whole:

(i) each of the Seller Parties is, and since the Lookback Date has been, in compliance with all applicable Environmental Laws, which compliance includes maintaining and complying with all material Environmental Permits required or necessary to own or operate the Business (and a list of all such Environmental Permits is set forth on Schedule 4.10(a)(i));

(ii) there are no Actions pending or, to the Knowledge of Seller Parent, threatened in writing, against the Seller Parties alleging that the Seller Parties or the Business are violating, or responsible for a Liability under, any Environmental Law, in each case with respect to the Business;

(iii) with respect to the Business, no Seller Party and, to the Knowledge of Seller Parent, no other Person to the extent giving rise to Liability for any Seller Party has released, disposed or arranged for disposal of, transported, exposed any Person to, or owned or operated any property or facility contaminated by, any Hazardous Materials, in each case so as to give rise to any Liability under Environmental Laws for any Seller Party or otherwise with respect to the Business or the Transferred Assets.

(b) The Seller Parties have provided to Buyer copies of all material environmental reports, assessments and audits in their possession or control and relating to the Business or the Transferred Assets and Assumed Liabilities.

Section 4.11. Material Contracts.

(a) Schedule 4.11(a) sets forth a true, complete and accurate listing of the following Contracts that are primarily related to the Business, in each case that is in effect on the Agreement Date and in each case other than Employee Plans (collectively, the “**Material Contracts**”); *provided*, that any purchase orders, servicer orders, or statements of work entered into in the Ordinary Course of Business shall not be required to be listed on Schedule 4.11:

(i) Contracts between a Seller Party, and any Affiliate or current or former officer, director, manager, employee or direct or indirect equityholder of any Seller Party, other than employment agreements or similar Contracts entered into in the Ordinary Course of Business;

(ii) any collective bargaining agreement or other labor-related Contract with any labor union, works council or labor organization (each, a “**Labor Agreement**”) representing any Covered Employees;

(iii) any employment or consulting agreement or deferred compensation, severance, bonus or similar Contract with any Covered Employee that (A) provides for (I) annual or aggregate compensation in excess of \$150,000 and (II) payment of any severance benefits or (III) any change in control, retention or other payments that would be triggered solely by the consummation of the transactions hereunder or (B) that cannot be terminated with less than sixty (60) days’ notice without incurring any Liability or financial obligation;

(iv) Contract for the sale or disposition of any of the assets of the Business, other than in the Ordinary Course of Business, for consideration in excess of \$500,000;

(v) Contracts relating to the acquisition or disposition of any business assets or properties (whether by merger, sale of stock, sale of assets or otherwise) by any Seller Party of any other Person, in each case, for consideration in excess of \$500,000 and which acquisition is pending or was consummated since the Lookback Date;

(vi) Contracts relating to incurrence of Debt or the making of any loans, in each case, involving amounts in excess of \$500,000;

(vii) each Contract relating to any single Capital Expenditure or series of related Capital Expenditures pursuant to which the Business has future financial obligations in excess of \$500,000;

(viii) other than Intercompany Debt (A) made or incurred in the Ordinary Course of Business which will be fully and unconditionally released and discharged at or prior to the Closing or (B) incurred in accordance with any Order of the Bankruptcy Court, Contracts relating to, or which create, Liens upon or in respect of the Transferred Assets (other than Permitted Liens);

(ix) Contracts which (A)(1) involve the receipt of revenue by the Seller Parties or (2) the expenditure by the Seller Parties, in each case, in excess of \$500,000 annually, (B) requires performance by any party thereto for more than one year from the Agreement Date, and (C) are not terminable by the applicable Seller Party that is party thereto without penalty on less than one hundred eighty (180) days' notice;

(x) settlements (A) in excess of \$750,000 entered into since the Lookback Date with respect to any Action or (B) for which the Business has ongoing monetary or non-monetary Liability(ies) thereunder;

(xi) BTOP Grants;

(xii) Contracts (A) for the inbound or outbound license of any Intellectual Property (other than (x) in-bound licenses for off-the-shelf or other commercially available software (including open source software) licensed or procured for aggregate fees of \$100,000 or less and, (y) non-exclusive licenses granted by any Seller Party to customers or service providers in the Ordinary Course of Business or that are incidental to the transaction contemplated by the Contracts containing such licenses, where the purpose of such Contracts is primarily something other than the license of Intellectual Property), (B) under which any Person has developed or been engaged to develop for any Seller Party any material Business Intellectual Property included in the Transferred Assets (excluding agreements with employees and contractors in the Ordinary Course of Business and on standard forms of agreement under which such employees and contractors assign rights in all such Intellectual Property to a Seller Party), or (C) settling, resolving, or purporting to settle or resolve any material dispute with respect to, or otherwise affecting any Seller Party's rights to use or enforce, any Business Intellectual Property included in the Transferred Assets, including settlement agreements, coexistence agreements, covenant-not-to-sue agreements, and consent-to-use agreement;

(xiii) Contracts that constitute a partnership agreement, joint venture agreement, strategic alliance, joint development or similar Contract or arrangement, including any Contract involving the sharing of profits, losses, costs or liabilities of Seller Parent or its Subsidiaries with any other Person;

(xiv) Contracts that contain (A) "most favored nation", "take or pay", or equivalent preferential pricing terms for the benefit of any third party, (B) "exclusivity" or any similar requirement in favor of any Person or (C) a minimum spend or purchase requirement, output requirement or any similar requirement in favor of any Person;

(xv) Contracts that (A) contains a non-compete clause binding or purporting to be binding on the Business or otherwise will limit or purports to limit the ability of the Business to engage or compete in any line of business or with any Person or in any geographic area or during a period of time or (B) that limits or purports to limit the Business from soliciting, hiring or otherwise engaging with any prospective employee, consultant, contractor, customer or supplier;

(xvi) Contracts with a Top Customer or Top Vendor;

(xvii) Contracts granting a power of attorney or similar Contract that provides any Person the right or power to bind the Business; and

(xviii) a commitment, promise, or agreement (whether written, oral or otherwise) to enter into any of the foregoing.

(b) Each Material Contract is a legal, valid, and binding obligation of the Seller Party that is party thereto, as the case may be, and, to the Knowledge of Seller Parent, each other party to such Material Contract, and is enforceable against the applicable Seller Party, as the case may be, and, to the Knowledge of Seller Parent, each other party to such Material Contract, in accordance with its terms, subject, in each case, to the Bankruptcy and Equity Exception. A true, complete and accurate copy of each Material Contract (and all amendments, supplements or other modifications thereto), and all other material documents, agreement or undertakings related thereto, including material work orders, purchase orders and similar documents, have been made available to Buyer. Except (i) as a result of the Bankruptcy Cases, (ii) would not reasonably be expected to be material to the Transferred Assets, Assumed Liabilities, or the Business, taken as a whole, (iii) as will be cured upon entry of the Sale Order and payment of the Cure Costs, or (iv) Excluded Contracts that have been, or will be rejected in the Bankruptcy Cases, each Seller Party has performed all obligations required to be performed by it under the Material Contracts, and it is not (with the giving of notice or the passage of time, or both) in breach or default thereunder, and to the Knowledge of Seller Parent, no other party to any Material Contract is in default or breach (with the giving of notice or the passage of time, or both) under the terms of any such Material Contract and, to the Knowledge of Seller Parent, no event, condition or omission has occurred that with or without the giving of notice or the passage of time or both would constitute a breach or default by the Seller Parties or any other party to such Material Contract. Except as set forth on Schedule 4.11(b), no Seller Party has received from any other party to a Material Contract any written claim or notice of termination or intention to terminate, materially and adversely amend or modify (including, proposing in writing (or, to the Knowledge of Seller Parent, orally), any amendment or modification to material terms relating to payment, price, or duration), or not renew (or renew on materially different terms) any such Material Contract. No Seller Party has received any written (or the Knowledge of Seller Parent, verbal) threat from any other Person with respect to any breach or default of any Material Contract.

(c) None of the Seller Parties has delivered any written (or the Knowledge of Seller Parent, verbal) notice of any default or event that with notice or lapse of time or both would constitute a default by a third party under any Material Contract that would individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business.

Section 4.12. Government Contracts. Neither Seller Parent nor any of the Seller Parties has (a) breached or violated any Law, clause or other material requirement pertaining to any Government Contract; (b) been excluded from bidding by a Government Authority; (c) been audited or investigated by any Government Authority with respect to any Government Contract; (d) conducted or initiated any internal investigation or made any disclosure with regard to any irregularity in connection with a Government Contract; or (e) received any small business set aside contract or other order or contract requiring small business or other preferred bidder status, in each case of clauses (a) through (e), as would not, individually or in the aggregate, reasonably be

expected to be material to the Transferred Assets, the Assumed Liabilities, or the Business, taken as a whole, or that would otherwise prevent or materially impair or delay the ability of the Seller Parties to consummate the Seller Transactions or otherwise perform their obligations under the Seller Transaction Agreements. To the Knowledge of Seller Parent, neither Seller Parent nor any of the Seller Parties has received any allegations of fraud, false claims or overpayments with respect to any of the Seller Parent's or the Seller Parties' Government Contracts.

Section 4.13. Employment and Employee Benefits Matters.

(a) Schedule 4.13(a) includes a correct and complete list, as of the Agreement Date, of all Assumed Employee Plans and separately lists and designates all other material Employee Plans. Seller Parent has previously made available to Buyer a true and complete copy of the following documents, to the extent applicable: (i) with respect to each material Employee Plan, any written plan documents (and the material terms of any unwritten Employee Plan) and all amendments thereto, including any related to trust documents, insurance contracts, or other funding arrangements, and all amendments thereto; (ii) with respect to any Assumed Employee Plan, the most recent Forms 5500 and all schedules thereto and the most recent actuarial report, if any; (iii) with respect to any Employee Plan, the most recent IRS determination letter; (iv) with respect to each material Employee Plan, the most recent summary plan descriptions and summaries of material modifications; (v) written summaries of all non-written Assumed Employee Plans and non-written material Employee Plans that are not Assumed Employee Plans; and (vi) with respect to any Assumed Employee Plan, all material non-routine correspondence received or sent from any Government Authority since the Lookback Date.

(b) Each Employee Plan that is intended to be qualified under Section 401(a) of the Code has received a favorable determination letter, or is entitled to rely on an opinion letter, from the IRS or is maintained on a prototype plan document that has received a favorable opinion letter or advisory letter from the IRS that such form of plan document is so qualified or exempt and no circumstances or events have occurred that would reasonably be expected to adversely affect the qualification of any such Employee Plan.

(c) No Employee Plan is and none of the Seller Parties currently maintains, sponsors, contributes to (or has an obligation to contribute to), or has, within the six (6) year period ending on the Agreement Date, maintained, sponsored, contributed to (or been obligated to contribute to), or otherwise has any Liability under or with respect to (i) a "multiemployer plan" as defined in Section 3(37) of ERISA, (ii) a pension plan subject to the funding standards of Section 302 of ERISA, Title IV of ERISA or Section 412 of the Code or any defined benefit plan (as defined in Section 3(35) of ERISA), (iii) a "multiple employer welfare arrangement" (as defined in Section 3(40) of ERISA) or (iv) a "multiple employer plan" (within the meaning of Section 210 of ERISA or Section 413(c) of the Code). No Employee Plan provides, and the Business does not have any Liability to provide, for post-employment, post-ownership or post-service health or welfare benefits to any Person other than (A) as required by Code Section 4980B or similar Laws, or (B) coverage through the end of the month in which a termination of service occurs if permitted by the terms of the applicable Employee Plan, in each case, and for which the covered Person pays the full premium cost of coverage.

(d) Each Employee Plan has been established, maintained, administered, funded and operated, in all material respects, in accordance with its terms and in compliance with the requirements of ERISA, the Code and all applicable Laws and no event has occurred with respect to any Employee Plan that has subjected or would reasonably be expected to subject the Business or any Transferred Asset to any material Tax, fine, Lien, penalty or other Liability imposed by ERISA, the Code (including with respect to Sections 4980B, 4980D, 4980H, 6721 of 6722 of the Code) or any other applicable Law.

(e) No material Actions are pending or, to the Knowledge of Seller Parent, threatened from any Government Authority in connection with any Assumed Employee Plan (other than routine benefit claims) or, to the extent material Liability to the Business could result, any other Employee Plan. With respect to each Employee Plan, all contributions, premiums or other payments with respect to the Business that have become due have been timely paid, in all material respects, or to the extent not yet due, have been properly accrued in accordance with GAAP, in all material respects. With respect to each Employee Plan, there have been no non-exempt “prohibited transactions” (as such term is defined under Section 406 of ERISA or Section 4975 of the Code) or breaches of fiduciary duty (as determined under ERISA), in each case, that could result in material Liability to the Business.

(f) No Seller Party is a party to or bound by any Labor Agreement with any labor union covering the Covered Employees, and none are currently being negotiated; and no Covered Employees of any Seller Party are represented by any labor union, labor organization or works council with respect to their employment with the Seller Party. To the Knowledge of Seller Parent, since the Lookback Date, there have been no labor organizing activities with respect to any Covered Employee. With respect to the Covered Employees, there are, and since the Lookback Date have been no actual or, to the Knowledge of Seller Parent, threatened (i) strikes, concerted work stoppages, concerted work slowdowns, hand billing, lockouts, or material labor disputes against or affecting any Seller Party, or (ii) unfair labor practice charges, material grievances or material labor arbitrations.

(g) Since the Lookback Date, no Seller Party has implemented any plant closing or layoff of employees triggering a notice obligation under the federal Worker Adjustment and Retraining Notification Act of 1988 or any similar applicable state or local law (the “**WARN Act**”), nor is there presently any outstanding liability under the WARN Act. As of the date of this Agreement, no plant closing or employee layoffs which would trigger a notice obligation under the WARN Act are planned or announced.

(h) Since the Lookback Date, the Seller Parties have reasonably investigated all sexual harassment and sexual misconduct allegations against any current or former officers, directors, or executive level employees of the applicable Seller Party that have been reported to such Seller Party, or of which the Seller Party or Seller Parent is otherwise aware. With respect to each such allegation (except those the Seller Party reasonably deemed to not have merit), the Seller Party has taken prompt corrective action reasonably calculated to prevent further improper conduct. No Seller Party is aware of any such allegations that would reasonably be expected to, individually or in the aggregate, be material to the Transferred Assets, the Assumed Liabilities or the Business.

(i) To Seller Parent's knowledge, no current or former employee or independent contractor of any Seller Party is in any material respect in violation of any term of employment agreement, nondisclosure agreement, noncompetition agreement or restrictive covenant obligation (i) owed to the Seller Party, or (ii) owed to any third party with respect to such person's right to be employed or engaged by the Seller Party.

(j) Each Assumed Employee Plan that constitutes in any part of a "non-qualified deferred compensation plan" (as defined under Section 409A(d)(1) of the Code) under which any Covered Employee is eligible to receive any payment or benefit has been operated and administered in compliance in all material respects with Section 409A of the Code and the Treasury Regulations and other official guidance promulgated thereunder and no amounts under any such Assumed Employee Plan has been or is reasonably expected to be subject to the interest and additional Tax set forth under Section 409A(a)(1)(B) of the Code.

(k) No Seller Party has any obligation to "gross-up", reimburse or otherwise indemnify any Covered Employee for any interest, penalties, or Taxes, including any excise taxes under Section 4999 of the Code or under Section 409A of the Code.

(l) Neither the execution nor delivery of this Agreement nor the consummation of the transactions could, either alone or in conjunction with any other event, (i) result in the payment of any compensation or benefits to any Covered Employee, (ii) accelerate the time of payment or vesting, or increase the amount of compensation due to any Covered Employee, (iii) result in the forgiveness of indebtedness under any Assumed Employee Plan or (iv) result in any "excess parachute payment" within the meaning of Section 280G of the Code payable or provided to any Covered Employee.

(m) Seller Parent has made available to Buyer a complete and correct list, as of the Agreement Date, of all Covered Employees, showing each employee's date of hire, job title, work location, department, base salary or hourly rate of compensation, target bonus or commission or other incentive compensation for 2025, accrued vacation balance, and whether on leave of absence (and if so, type of leave and expected date of return). To the Knowledge of Seller Parent, the Covered Employees set forth on the foregoing list are sufficient in number to conduct the Business on a stand-alone basis in substantially the same manner as conducted as of the Agreement Date. Seller Parent represents that each individual set forth on the foregoing list predominantly devotes his or her working time to performing services on behalf of the Business, and that no Seller Party employs any individuals who predominantly devotes his or her working time to performing services on behalf of the Business who is not included in the foregoing list.

(n) Except as would not, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect, there are, and since the Lookback Date have been, no employment- or labor-related Actions pending against or involving any Covered Employee and, to the Knowledge of Seller Parent, (i) no such Action is threatened and (ii) no facts or circumstances exist that would reasonably be expected to result in any such Action.

Section 4.14. Taxes.

(a) Except for matters that would not reasonably be material to the Transferred Assets, the Assumed Liabilities or the Business:

(i) The Seller Parties have timely filed (or have had filed on their behalf) all Tax Returns required to be filed, taking into account any extensions of time to file such Tax Returns and all such Tax Returns are true, complete and correct in all respects. All amounts of Taxes (whether or not shown as due on such Tax Returns) owed by the Seller Parties have been fully paid or properly accrued for on the Seller Parties' applicable financial statements other than Taxes which are not yet due and payable or are being contested in good faith.

(ii) There are no Liens for Taxes on the Transferred Assets other than Permitted Liens. The Seller Parties have (A) timely collected and paid all sales and use Taxes that such Seller Party was required to collect or pay or have been furnished properly completed exemption certificates and have maintained all such records and supporting documents in the manner required by all applicable sales and use Tax statutes and regulations, and (B) are otherwise in compliance in all respects with all applicable Laws regarding sales and/or use Taxes, in each case, with respect to the Business or the Transferred Assets.

(iii) To the Knowledge of Seller Parent, no Seller Party has been a party to a "listed transaction" as such term is defined in Treasury Regulations Section 1.6011-4(b)(2) that involved or related to the Transferred Assets.

(iv) There are not currently in effect any extensions or waivers of any statute of limitations of any jurisdiction regarding the assessment or collection of any Tax relating to the Transferred Assets.

(v) There are no administrative or judicial proceedings by any Taxing Authority commenced or pending with respect to any Taxes relating to the Transferred Assets.

(vi) No claim relating to Taxes of the Transferred Assets has, since the Lookback Date, been made in writing by a Taxing Authority in a jurisdiction where a Seller Party does not file Tax Returns with respect to the Transferred Assets that it is or may be subject to taxation by that jurisdiction with respect to the Transferred Assets.

(vii) No deficiency, audit, examination or other action for any amount of Tax (i) is pending, (ii) is being conducted, or (iii) has been threatened in writing by a Taxing Authority relating to Taxes of the Transferred Assets that has not been satisfied by payment, settled or withdrawn.

(viii) All Tax withholding and deposit requirements imposed by applicable Law with respect to any of the Transferred Assets have been satisfied in all respects.

(ix) The purchase of the Transferred Assets will not result in Buyer being treated as purchasing equity interests for U.S. federal (or applicable state or local) income Tax purposes.

Section 4.15. Real Property.

(a) Schedule 4.15(a)(i) sets forth the address of all Transferred Owned Real Property as of the Agreement Date. With respect to each Transferred Owned Real Property, (i) the applicable Seller Party has good and valid marketable fee simple title to all such Transferred Owned Real Property, in each case free and clear of all Liens, except for Permitted Liens; (ii) the applicable Seller Party has not leased or otherwise granted to any person the right to use or occupy such Transferred Owned Real Property or any portion thereof; and (iii) other than the right of Buyer pursuant to this Agreement, there are no outstanding options, rights of first offer or rights of first refusal to purchase such Transferred Owned Real Property or any portion thereof or interest therein. Schedule 4.15(a)(ii) sets forth a list of all real property easement rights related to the Transferred Assets that are material to the operation of the Physical Network, which cross the real property of private property owners or political subdivisions. No Seller Party is a party to any agreement or option to purchase any real property or interest therein relating to, or intended to be used in the operation of, the Business.

(b) Schedule 4.15(b)(i) sets forth a list of the addresses of all Transferred Leased Real Property, and a true and complete list of all Transferred Leases for each such Transferred Leased Real Property as of the Agreement Date. Seller Parent has delivered to Buyer a true and complete copy of each such Transferred Lease document (including all material amendments, extensions, renewals, guaranties and other agreements with respect thereto). The applicable Seller Party has valid leasehold title (as lessee or sublessee) in all such Transferred Leased Real Property, in each case free and clear of all Liens, except for Permitted Liens. All Transferred Leases under which a Seller Party is a lessee or sublessee are legal, binding and in full force and effect and are enforceable as against such Seller Party, and to the Knowledge of Seller Parent, as against any other counterparty thereto, in all material respects, in accordance with their respective terms, subject to the Bankruptcy and Equity Exception. Except as set forth on Schedule 4.15(b)(ii), with respect to each of the Transferred Leases: (i) the applicable Seller Party's possession and quiet enjoyment of the Transferred Leased Real Property under such Transferred Lease has not been disturbed; (ii) neither the applicable Seller Party nor any other party to the Transferred Lease is in material breach or material default under any such Transferred Lease, and no event has occurred or circumstances exist which, with the delivery of notice, the passage of time or both, would constitute such a material breach or material default, or permit the termination, modification, or acceleration of rent under such Transferred Lease; (iii) the applicable Seller Party has not subleased, licensed or otherwise granted any person the right to use or occupy such Transferred Leased Real Property or any portion thereof; and (iv) the applicable Seller Party has not collaterally assigned or granted any other security interest in such Transferred Lease or any interest therein, in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business taken as a whole.

(c) Schedule 4.15(c) sets forth Google Earth KMZ digital file maps of the Physical Network (the "**KMZ Map**") relating to the Transferred Assets that is accurate and complete in all material respects to the Knowledge of Seller Parent as of the Agreement Date. The term "**Physical Network**" means the fiber optic networks, cabling, and other fixed network-related assets irrespective of whether they are located on public or private property, including wires, cables, conduits, junction boxes, manholes, hand holes, and connecting equipment. The Seller Parties' material interests or material right of use in the Transferred Owned Real Property,

Transferred Leased Real Property, IRUs, and Transferred Contracts, that are necessary for the operation of the Physical Network are substantially shown in the KMZ Map set forth in Schedule 4.15(c), in each case, as would not, individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business, taken as a whole.

(d) To the Knowledge of Seller Parent, the Transferred Real Property is in material compliance with all applicable building, zoning, subdivision and other land use Laws for the current use of the Transferred Real Property; as of the Agreement Date, the buildings, structures, improvements, fixtures, building systems and equipment, and all material components thereof, included in the Transferred Real Property and Physical Network have not suffered material damage from severe weather events and other natural conditions such as hurricanes, floods, tornadoes, earthquakes and wildfires, among other events and none of the Seller Parties has received any written notice from any Government Authority asserting any material violation of applicable Laws with respect to the Transferred Owned Real Property or Transferred Leased Real Property that remains uncured as of the Agreement Date that, individually or in the aggregate, would reasonably be expected to have a Material Adverse Effect.

Section 4.16. Brokers. Except for fees and expenses of Bank Street Group LLC and PJT Partners LP (together, the “**Seller Parent’s Bankers**”) (whose fees and expenses shall be solely borne by Seller Parties as an Excluded Liability, with no Liability to Buyer or any of its Affiliates with respect thereto at or following the Closing) no broker, finder, investment banker, financial advisor or other Person is entitled to any brokerage, finder’s, financial advisor’s or other fee or commission, including any reimbursement of expenses in connection therewith, from or on behalf of the Seller Parties or any of their respective Affiliates in connection with the Transactions.

Section 4.17. Title. Except for Permitted Liens, the Transferred Assets (other than (a) the Transferred Owned Real Property and the leasehold estate (as lessee or sublessee) in the Transferred Leased Real Properties, which are the subject of Section 12.05 and (b) any tangible personal property leased pursuant to a Transferred Contract) are owned by or otherwise made available to the Seller Parties, free and clear of all Liens, to the fullest extent permissible under Section 363(f) of the Bankruptcy Code.

Section 4.18. Insurance. Schedule 4.18 provides true, complete and accurate list, including the name of the insurer, the name of the Person insured, the risks insured and related limits, and policy number of all material Insurance Policies maintained by Seller Parent and/or its Subsidiaries for, at the expense of or for the benefit of, the Business. Each such Insurance Policy is in full force and effect, all premiums due and owing to date thereunder have been timely paid in full and neither the Seller Parties nor any of their Affiliates is in material default with respect to any other obligations thereunder. No written notice of any pending or threatened cancellation, alteration of coverage, termination or nonrenewal, in whole or in part, with respect to any such Insurance Policy currently in force has been received by any Seller Party as of the Agreement Date. Except as would reasonably be expected to be material to the Transferred Assets, Assumed Liabilities, or the Business, taken as a whole, there is no claim or other Actions pending or, to the Knowledge of Seller Parent, threatened under any of the Insurance Policies as to which coverage has been questioned, denied or disputed by the underwriters of such policies. To the Knowledge of Seller Parent, no event has occurred, and no circumstance or condition exists, that has given rise to or serves as the basis for or (with or without notice or lapse of time) could reasonably be

expected to give rise to or serve as the basis for any material claim or other Action under any Insurance Policy. Neither Seller Parent nor any of its Subsidiaries has received any written notice from any insurer or reinsurer of any reservation of rights with respect to pending or paid material claims or other Actions. Except as would reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business, taken as a whole, all Insurance Policies are, and all similar insurance policies maintained since the Lookback Date, were placed with financially sound and reputable underwriters, and are and were in amounts and had coverages that are and were reasonable and customary for Persons engaged in business similar to the Business.

Section 4.19. Sufficiency of Assets. The Transferred Assets are owned or leased by the Seller Parties, and together with the Shared Customer Contracts, Excluded Contracts (that Buyer elects to exclude or not assume hereunder), and the services to be provided by the Seller Parties pursuant to the TSA, constitute all properties and other assets that are used or necessary for use in connection with the continued operation of the Business as currently conducted as of the date of this Agreement, in all material respects.

Section 4.20. Affiliate Transactions. Except as set forth on Schedule 4.20, no Affiliate of any Seller Party, or any current or former Insider (a) is a party to any agreement or transaction with any Seller Party other than (i) employment arrangements in the Ordinary Course of Business and (ii) the Employee Plans, (b) has any interest in any material property (whether tangible or intangible) used by any Seller Party in connection with the Business or (c) owns any interest in, or is engaged in business as a Top Vendor or Top Customer of Seller Parties.

Section 4.21. Top Customers and Top Vendors. Schedule 4.21 sets forth a correct and complete list of (a) the top twenty (20) customers of the Business on a consolidated basis as determined by the amount of gross billings by the Business during the twelve (12)-month period ending on the Balance Sheet Date (the “**Top Customers**”), including the amount of such gross billings for each Top Customer in such period, and (b) the top twenty (20) vendors of the Business on a consolidated basis as determined by the aggregate value of total purchases or payments made by the Business during the twelve (12)-month period ending on the Balance Sheet Date (the “**Top Vendors**”), including the aggregate value of purchases or payments made to each Top Vendor for such period; *provided, however*, that in no event shall the Top Vendors include any legal, financial, or other advisors or consultants primarily engaged by the Seller Parties in connection with, or relating to, filing or the preparation of the Bankruptcy Cases, the restructuring contemplated thereby, the authorization, preparation, negotiation, execution and performance of this Agreement or the other Transaction Agreements, the MO Divestiture APA, the IL Divestiture APA, or the sale process relating to the potential sale of the Business or any of the Excluded Businesses. To the Knowledge of Seller Parent, since the Lookback Date no event has occurred that has adversely affected in any material way or would reasonably be expected to, adversely affect in any material way the applicable Seller Parties’ relations with any Top Customer or any Top Vendor, and since the Lookback Date no Top Customer or Top Vendor has terminated or materially decreased the amount of business conducted with the Seller Parties or to the Knowledge of Seller Parent, threatened, advised or notified the Seller Parties that it intends to terminate its relations with the Seller Parties or otherwise materially decrease the amount of business conducted with the Seller Parties. No Seller Party is currently engaged in any dispute with any Top Customer or any Top Vendor. Since the Lookback Date, there has not been a material disruption in the operation of the

Business, or issue that resulted in a material Action or Order against or implicating the Seller Parties, that involved a Top Vendor.

Section 4.22. Inventory. The Inventory consists in all material respects, of a quality and quantity usable in the Ordinary Course of Business, is not obsolete, damaged, defective or abnormally slow-moving, and is and will be merchantable and fit for its intended use, subject only to the reserves for inventory write-downs or unmarketable, obsolete, defective or damaged inventory for which adequate reserves have been established, in each case, as would not individually or in the aggregate, reasonably be expected to be material to the Transferred Assets, the Assumed Liabilities or the Business, taken as a whole.

Section 4.23. Available Contract Schedule. To the Knowledge of Seller Parent, the Seller Parties have provided (or cause the provision of) to Buyer on or prior to the Agreement Date a true and accurate copy in all material respects of the Available Contract Schedule as of the Agreement Date.

Section 4.24. No Other Representations or Warranties.

(a) Except for the representations and warranties expressly set forth in (i) this Article IV (as modified by the Disclosure Schedules), (ii) any other Transaction Agreement or (iii) the certificate to be delivered pursuant to Section 6.03(b), none of the Seller Parties or any other Person has made, makes or shall be deemed to make any other representation or warranty of any kind whatsoever, express or implied, written or oral, at law or in equity, on behalf of the Seller Parties or any of their respective Affiliates, including any representation or warranty regarding any Seller Party or any other Person, any Transferred Assets, any Liabilities of any Seller Party, including any Assumed Liabilities, the Business, any other rights or obligations to be transferred pursuant to the Transaction Agreements or any other matter, and the Seller Parties hereby disclaim all other representations and warranties of any kind whatsoever, express or implied, written or oral, at law or in equity, whether made by or on behalf of any Seller Party or any other Person, including any of their respective Representatives.

(b) Except for the representations and warranties expressly set forth in (i) this Article IV (as modified by the Disclosure Schedules), (ii) any other Transaction Agreement or (iii) the certificate to be delivered pursuant to Section 6.08: (x) each Seller Party hereby (A) disclaims and negates any representation or warranty, expressed or implied, at common law, by statute, or otherwise, relating to the condition of the Transferred Assets or the Business, and (B) disclaims all Liability and responsibility for all projections, forecasts, estimates, financial statements, financial information, appraisals, statements, promises, advice, data or information made available or provided by or on behalf of Seller Parent in that certain datasite administered by Firmex on behalf of the Seller Parties (the “**Dataroom**”) or otherwise communicated or furnished (orally or in writing, including electronically) to Buyer or any of Buyer’s Affiliates or any Representatives of Buyer or any of Buyer’s Affiliates (including any opinion, information, projection, or advice that may have been or may be provided to Buyer by any Representative of the Seller Parties), including omissions therefrom; and (y) without limiting the foregoing, no Seller Party makes any representation or warranty of any kind whatsoever, express or implied, written or oral, at law or in equity, to Buyer or any of its Affiliates or any Representatives of Buyer or any of its Affiliates regarding the probable success, profitability or value of the Transferred Assets or the Business.

The disclosure of any matter or item in any Disclosure Schedule or other schedule hereto shall not be deemed to constitute an acknowledgment that any such matter is required to be disclosed or is material or that such matter would reasonably be expected to result in a Material Adverse Effect except for any disclosure pursuant to Section 4.05(b).

(c) Notwithstanding the foregoing, nothing in this Section 4.24 shall limit any rights or remedies of Buyer with respect to a claim arising out of or related to Fraud.

ARTICLE V

REPRESENTATIONS AND WARRANTIES OF BUYER

Buyer hereby represents and warrants to Seller Parent that:

Section 5.01. Formation and Authority of Buyer; Enforceability. Buyer is a corporation, limited partnership, limited liability company, or other entity duly incorporated, formed or organized, validly existing and, to the extent legally applicable, in good standing under the Laws of its jurisdiction of incorporation, formation or organization and has the requisite corporate, limited partnership, limited liability company, or other appropriate power and authority to execute, deliver and perform its obligations under the Buyer Transaction Agreements (including the consummation of the Buyer Transactions). The execution, delivery and performance of the Buyer Transaction Agreements by Buyer (including the consummation of the Buyer Transactions) have been duly authorized by all requisite corporate, limited partnership, limited liability company, or other applicable organizational action on the part of Buyer, and no shareholder or other similar approval is required in connection with Buyer's execution, delivery and performance of the Buyer Transaction Agreements. This Agreement has been, and upon execution and delivery thereof, the other Buyer Transaction Agreements will be, duly executed and delivered by Buyer, and (assuming due authorization, execution and delivery by the other parties hereto and thereto) this Agreement constitutes, and upon execution and delivery thereof, the other Buyer Transaction Agreements will constitute, legal, valid, and binding obligations of Buyer enforceable against Buyer in accordance with their respective terms, subject to the Bankruptcy and Equity Exception.

Section 5.02. No Conflict. Provided that all Consents, waivers and other actions described in Section 12.05 (including the Government Approvals) or Section 4.03 have been obtained, the execution, delivery and performance by Buyer of the Buyer Transaction Agreements do not and will not:

- (a) violate or conflict with the certificate or articles of incorporation or bylaws or similar organizational documents of Buyer;
- (b) violate any Law or Order applicable to Buyer;
- (c) violate, conflict with, result in a breach of, or constitute a violation or default (or any event that, with notice or lapse of time or both would constitute a default) under, or give rise to any right to terminate, cancel, or accelerate, or result in a loss of a material benefit under, any material Contract; or

(d) result in the creation of any Lien (other than a Permitted Lien) on any assets or properties of Buyer pursuant to, any material Contract to which Buyer or any of its Subsidiaries or Affiliates is a party, or by which Buyer or any of such assets or properties is bound,

in each of the case of clauses (b), (c) and (d), except for any such conflicts, violations, terminations, cancellations, breaches, defaults, accelerations, or Liens as would not materially impair or delay the ability of Buyer to consummate the Buyer Transactions or otherwise perform its obligations under the Buyer Transaction Agreements.

Section 5.03. Consents and Approvals. The execution, delivery and performance by Buyer of the Buyer Transaction Agreements do not and will not require any Consent, waiver or other action by, or any filing with or notification to, any Government Authority, except (a) the Government Approvals, (b) in connection with any other applicable filing, notification, waiting period or approval requirements under applicable Antitrust Laws, Communications Laws, the DPA and the BTOP Grants or (c) where the failure to obtain such Consent or waiver, to take such action, or to make such filing or notification, would not materially impair or delay the ability of Buyer to consummate the Buyer Transactions or otherwise perform its obligations under the Buyer Transaction Agreements.

Section 5.04. Absence of Restraints; Compliance with Laws.

(a) Buyer is not in violation of any Laws or Orders applicable to the conduct of its business, except for violations the existence of which would not reasonably be expected to materially impair or delay in any material respect the ability of Buyer to consummate the Buyer Transactions or otherwise perform its obligations under the Buyer Transaction Agreements.

(b) There are no Actions pending or, to the knowledge of Buyer, threatened in writing, that would materially impair or delay in any material respect the ability of Buyer to consummate the Buyer Transactions or otherwise perform its obligations under the Buyer Transaction Agreements or to consummate the Transactions contemplated by the Buyer Transaction Agreements.

Section 5.05. Financial Ability.

(a) Attached hereto as Exhibit F is (i) a true and complete copy of an executed commitment letter (together with all exhibits, schedules and annexes thereto) dated May 22, 2025 (as amended, restated, amended and restated, supplemented or otherwise modified only in accordance with Section 6.12), together with the Fee Letter (as defined below), (the “**Debt Commitment Letters**”) from the Commitment Parties (as defined therein) (collectively, the “**Lenders**”) pursuant to which the Lenders have committed to provide Buyer with debt financing for the Transactions on the terms and conditions set forth therein (such debt financing, the “**Debt Financing**”), (ii) the fee letter (which fee letters may be redacted to remove only the fees and economic terms (including economic “flex” terms) set forth therein so long as such redacted information does not adversely affect the conditionality, availability or termination provisions of the Debt Financing (as defined below)), dated May 22, 2025 (as amended, restated, amended and restated, supplemented or otherwise modified only in accordance with Section 6.12, the “**Fee Letter**”) and (iii) each other side letter and Contract related to the Debt Financing (including with

respect to all related “flex” rights) (other than customary engagement letters in respect of permanent financing in lieu of all or part of the Debt Financing (none of which adversely affects the conditionality, availability or termination provisions of the Debt Financing)). Attached hereto as Exhibit G is a true and complete copy of an executed equity commitment letter dated as of the date hereof (together with all exhibits, schedules and annexes thereto, as amended, restated, amended and restated, supplemented or otherwise modified in accordance therewith and herewith as applicable, the “**Equity Commitment Letter**” and, together with the Debt Commitment Letters, the “**Commitment Letters**”) from MIP IV (FCC) AIV, L.P., a Delaware limited partnership (“**Sponsor**”), pursuant to which the Sponsor has committed, subject to the terms and conditions set forth therein, to provide to Buyer the amounts of equity financing as described therein (the “**Equity Financing**” and together with the Debt Financing, the “**Financing**”). Assuming the satisfaction of the conditions set forth in the Commitment Letters, the satisfaction of the Closing Conditions set forth in Article X, and the compliance by the Seller Parties with their obligations under Section 6.12, the aggregate proceeds contemplated by the Commitment Letters, together with Other Sources, will be sufficient for Buyer to consummate the Transactions and to satisfy all of the payment obligations of Buyer under this Agreement, in each case, at the Closing, including paying the Required Financing Amount (defined below).

(b) The Commitment Letters (i) are legal, valid, and binding obligations of Buyer and, to the knowledge of Buyer, the other parties thereto, (ii) are in full force and effect, and (iii) are enforceable against Buyer and, to the knowledge of Buyer, against each other party thereto in accordance with their terms, subject to the Bankruptcy and Equity Exception. As of the Agreement Date, none of the Financing has been terminated or withdrawn, no Lender or Sponsor has notified Buyer of its intention to terminate or withdraw the Financing to be provided by such Lender or Sponsor (respectively), and Buyer does not know of any facts or circumstances that would reasonably be expected to result in the conditions set forth in the Commitment Letters not being satisfied. To the extent this Agreement must be in a form acceptable to any Lender or Sponsor providing any Financing, such Lender or Sponsor has approved this Agreement.

(c) There are no side letters or other Contracts (other than customary engagement letters in respect of permanent financing in lieu of all or part of the Debt Financing (none of which adversely affects the conditionality, availability or termination provisions of the Debt Financing)) or written agreements to which Buyer or any of its Affiliates is a party relating to the Financing that would impose any new conditions or expand the existing conditions to the Lenders’ or Sponsor’s provision of the Financing at the Closing or that would otherwise materially and adversely affect the availability of the Financing at the Closing, other than as attached hereto as Exhibit F or Exhibit G. There are no conditions precedent related to the funding of the full amount of the Financing contemplated by the Commitment Letters, other than the conditions precedent expressly set forth in the Commitment Letters (in the case of the Debt Commitment Letters, as the same may be amended, restated, amended and restated, supplemented, replaced or otherwise modified, in each case, in accordance with Section 6.12 (including pursuant to any Alternative Financing)). For the avoidance of doubt, it is understood and agreed that nothing in this Agreement (including in this Section 5.05) shall prejudice Buyer’s ability to elect to seek or obtain Alternative Financing or other debt financing that, in each case, is on Commercially Reasonable Terms, and Buyer’s seeking and obtaining any Alternative Financing or other such debt financing shall not be deemed to be a breach, violation or other contravention of this Agreement (including this Section 5.05).

(d) Buyer (i) has no reason to believe that it or, to the knowledge of Buyer, any of the other parties to the Commitment Letters will be unable to satisfy on a timely basis any term or condition of closing to be satisfied by it or its Affiliates contained in the Commitment Letters, and (ii) as of the Agreement Date, has no reason to believe that any portion of the Financing required to pay the Required Financing Amount at the Closing and otherwise consummate the Transactions to be consummated by Buyer at the Closing will not be made available to Buyer on the Closing Date. Buyer has fully paid any and all commitment fees and other fees required by the Commitment Letters (as applicable) to be paid as of the Agreement Date. As of the Agreement Date, Buyer is not in default or breach under the terms and conditions of the Commitment Letters and, to the knowledge of Buyer, no event has occurred that, with or without notice, lapse of time, or both, would reasonably be expected to constitute a default or breach or a failure to satisfy a condition under the terms and conditions of the Commitment Letters.

(e) Buyer Parent has and Buyer will have at the Closing, (i) the resources and capabilities (financial and otherwise) to perform its obligations under the Transaction Agreements (including all payments to be made by it hereunder or in connection herewith) which are to be performed at the Closing, (ii) immediately available funds in connection with the Financing, together with Other Sources, in an aggregate amount (after netting out applicable fees, expenses, original issue discount and similar premiums and charges provided under the Commitment Letters, and assuming that all rights to “flex” the terms of the Debt Financing are exercised to their maximum extent) sufficient to enable Buyer to (A) consummate the Transactions on the terms contemplated by the Transaction Agreements and (B) pay all related fees and expenses and (iii) the resources and capabilities (financial and otherwise) to undertake its other obligations which are required to be performed at the Closing on the terms and conditions contemplated by the Transaction Agreements (the amounts required to be paid by Buyer pursuant to this Section 5.05, the “**Required Financing Amount**”). Buyer is and shall be capable of satisfying the conditions contained in sections 365(b)(1)(C) and 365(f) of the Bankruptcy Code with respect to the Transferred Assets and the related Assumed Liabilities.

(f) The obligations of Buyer under this Agreement are not contingent on the availability of the Debt Financing.

Section 5.06. Brokers. Except for fees and expenses for which Buyer or its Affiliate is solely responsible, no broker, finder or investment banker is entitled to any brokerage, finder’s or other fee or commission from Buyer or any of Buyer’s Affiliates in connection with the Transactions.

Section 5.07. Investigation. Buyer acknowledges and agrees that it (a) has completed such inquiries and investigations as it has deemed appropriate into, and, based thereon, has formed an independent judgment concerning, the Transferred Assets, the Assumed Liabilities, the Business and the Transactions, and any other rights or obligations to be transferred, directly or indirectly, pursuant to the Transaction Agreements and (b) has been furnished with, or given access to, all such projections, forecasts, estimates, appraisals, statements, promises, advice, data or information about the Seller Parties, the Transferred Assets, the Assumed Liabilities, the Business and any other rights or obligations to be transferred, directly or indirectly, pursuant to the Transaction Agreements, as it has requested or otherwise requires to enter into this Agreement. Buyer further acknowledges and agrees that (i) the only representations and warranties made by

the Seller Parties are the representations and warranties expressly set forth in Article IV (as modified by the Disclosure Schedules) or any other Transaction Agreement, including the certificate to be delivered pursuant to Section 6.11, and Buyer has not relied upon any other express or implied representations, warranties or other projections, forecasts, estimates, appraisals, statements, promises, advice, data or information made, communicated or furnished by or on behalf of Seller Parent or any of its Affiliates, any Representatives of Seller Parent or any of its Affiliates or any other Person, including any projections, forecasts, estimates, appraisals, statements, promises, advice, data or information made, communicated or furnished by or through Seller Parent's Bankers, or management presentations, Dataroom or other due diligence information, and that Buyer will not have any right or remedy arising out of any such representation, warranty or other projections, forecasts, estimates, appraisals, statements, promises, advice, data or information and (ii) any claims Buyer may have for breach of any representation or warranty shall be based solely on the representations and warranties of the Seller Parties expressly set forth in Article IV (as modified by the Disclosure Schedules) or any other Transaction Agreement, including the certificate to be delivered pursuant to Section 7.01(b), subject to the exclusive remedies set forth herein, in each case, other than in the case of Fraud (and nothing in this Section 5.07 shall limit any rights or remedies with respect thereto). Except as otherwise expressly set forth in this Agreement or any other Transaction Agreement, Buyer understands and agrees that the Business, the Transferred Assets and the Assumed Liabilities are being transferred on a "where-is" and, as to condition, "as-is" basis subject to the representations and warranties contained in Article IV (as modified by the Disclosure Schedules) or any other Transaction Agreement, including the certificate to be delivered pursuant to Section 9.01, without any other representations or warranties of any nature whatsoever.

Section 5.08. No Other Representations or Warranties. Except for the representations and warranties expressly set forth in (a) this Article V, (b) any other Transaction Agreement or (c) the certificate to be delivered pursuant to Section 9.04, none of Buyer or any other Person has made, makes or shall be deemed to make any other representation or warranty of any kind whatsoever, express or implied, written or oral, at law or in equity, on behalf of Buyer or any of its respective Affiliates, including any representation or warranty regarding Buyer or any other Person or any other matter, and Buyer hereby disclaims all other representations and warranties of any kind whatsoever, express or implied, written or oral, at law or in equity, whether made by or on behalf of Buyer or any other Person, including any of its Representatives.

ARTICLE VI

ADDITIONAL AGREEMENTS

Section 6.01. Conduct of Business Before the Closing.

(a) Except (v) as required by applicable Law or by Order of the Bankruptcy Court, (w) as required by the express terms of any Transaction Agreement or the DIP Credit Agreement, (x) with Buyer's express prior written consent, (y) as required in connection with the wind-down of the PA Business or (z) for matters identified on Schedule 6.01(a), during the Pre-Closing Period:

(i) Seller Parent shall, and shall cause the other Seller Parties to (A) operate the Business in the Ordinary Course of Business, (B) use reasonable best efforts to maintain the Transferred Assets in good operating condition and repair in accordance with past practices (subject to ordinary wear and tear), (C) use reasonable best efforts to preserve in all material respects the present business operations, organization, and goodwill of the Business, and the present relationships with material customers and material suppliers of the Business and (D) use reasonable best efforts to maintain inventory and supplies at customary and adequate operating levels consistent with the Ordinary Course of Business; and

(ii) Seller Parent shall use, and shall cause the other Seller Parties to use, reasonable best efforts to assist Buyer in obtaining title commitments, title policies and surveys with respect to the Transferred Owned Real Property (including, without limitation, removing from title any liens or encumbrances which are not Permitted Liens and providing the Buyer's title company with any affidavit, indemnity or other assurances reasonably requested by the title company to issue the title policies).

(b) Except (v) as required by applicable Law or by Order of the Bankruptcy Court, (w) as required by the express terms of any Transaction Agreement or the DIP Credit Agreement, (x) with Buyer's express prior written consent, (y) as required in connection with the wind-down of the PA Business or (z) for matters identified on Schedule 6.01(b), during the Pre-Closing Period, Seller Parent shall not, and shall cause the Seller Parties and other subsidiaries not to do or take any of the following actions (whether by merger, operation of law or otherwise):

(i) except in the Ordinary Course of Business in exchange for fair value in cash, sell lease, transfer, license, abandon, or otherwise dispose of, grant or permit to exist any Lien on any Transferred Assets (in each case, whether tangible or intangible), in each case, other than a Permitted Lien or a Lien that will be discharged at or prior to the Closing (with no Liability to Buyer or any of its Affiliates, or any of the Transferred Assets);

(ii) acquire (by merger, consolidation, acquisition of stock or assets, or otherwise) any corporation, partnership, or other business organization or division;

(iii) in each case except (A) for any such Debt or guaranty that will be discharged at or prior to the Closing, or (B) to the extent incurred in connection with the Bankruptcy Cases pursuant to an Order of the Bankruptcy Court, incur or issue any Debt that would be an Assumed Liability if such Debt existed as of the Closing, or assume, guarantee, endorse, or otherwise become responsible for, Debt of any Person that would be an Assumed Liability if such Debt existed as of the Closing;

(iv) sell, transfer, lease, sublease, or otherwise dispose of (A) any IRU Agreement or any Contract relating to "dark fiber", in each case, that results in pricing that is materially under market or would be required to be included on Schedule 4.20, or (B) any Transferred Assets (excluding Business Intellectual Property, Business Technology, or Business Systems) having a value in excess of \$250,000, other than (x) in the Ordinary Course of Business or (y) obsolete or immaterial assets not used in the Ordinary Course of Business;

(v) sell, transfer, license, abandon, or otherwise dispose of any material Business Intellectual Property, Business Technology, or Business Systems, in each case, to the extent included in the Transferred Assets, other than non-exclusive licenses in the Ordinary Course of Business;

(vi) (A) increase the wages, salaries, or bonuses, or other compensation payable to any Covered Employee whose annual base compensation exceeds \$150,000, (B) establish or increase any benefits under any Assumed Employee Plan or any material Employee Plan that is not an Assumed Employee Plan, except, in either case, (x) as required by the terms of any Assumed Employee Plan, material Employee Plan that is not an Assumed Employee Plan or any Contract in existence on the Agreement Date that has been made available to Buyer, (y) any increase in wages, salaries, bonuses, and incentives in the Ordinary Course of Business, or (z) as required by applicable Law; or (C) announce or grant any new cash or equity or equity-based incentive awards to any Covered Employee, including any, bonus, retention, change in control, transaction, severance, or other similar compensation;

(vii) establish, adopt, amend, enter into, modify or terminate any Assumed Employee Plan or any other benefit or compensation plan, program, policy, agreement or arrangement that would be an Assumed Employee Plan if in effect on the Agreement Date;

(viii) (A) modify, extend, terminate, or enter into any Labor Agreement, or (B) recognize or certify any labor union, labor organization, works council, or group of employees as the bargaining representative for any Covered Employees of any Seller Party;

(ix) hire (other than (x) to replace a terminated Covered Employee at a base salary or wage rate that is not in materially excess of the base salary or wage rate applicable to the replaced employee or (y) any other employee who would be a Covered Employee with a base salary or wage rate that is not in excess of \$150,000) or terminate (other than for cause) any Covered Employee or reassign the duties of (A) a Covered Employee such that he or she is no longer a Covered Employee, or (B) any other employee of any Seller Party such that he or she would become Covered Employee;

(x) implement or announce any employee layoffs, furloughs, reductions in force, plant closings, reductions in compensation, or other similar actions that trigger notice obligations under the WARN Act;

(xi) waive or release any noncompetition, nonsolicitation, nondisclosure, or other restrictive covenant obligation of any Covered Employee, Former Covered Employee, or current or former individual independent contractor primarily providing services to the Business;

(xii) waive, assign, institute, compromise, settle, offer to or enter into any settlement or release with respect to any pending or threatened (in writing) Action relating to the Business or any of the Transferred Assets other than any settlement or release entered into in the Ordinary Course of Business or otherwise that (A) contemplates only the payment of money not in excess of \$250,000 individually or \$500,000 in the aggregate (which payment, for further clarity, will constitute Excluded Liabilities) without ongoing limits on the conduct or operation of

the Business or use or other exploitation of any of the Transferred Assets, (B) results in a full release of the applicable Seller Parties with respect to the claims giving rise to such Action (other than (x) the Bankruptcy Cases or any proceedings, claims, or disputes arising from or related thereto (including with respect to the DIP Lenders or any existing lender of the Seller Parties), or (y) involving solely money damages not in excess of \$250,000 individually, and \$500,000 in the aggregate (which damages, for further clarity, will constitute Excluded Liabilities), in each case, for which this Section 6.01(b)(xii) shall be construed without giving effect to requirements of this clause (B) (provided, that such settlement does not give rise to any Assumed Liability)), and (C) is not reasonably expected to result in (x) reputational harm or other material harm to the Business or (y) the Business admitting fault or wrongdoing in a manner that would be adverse to the Buyer or the Business in any material respect (including, for the avoidance of doubt any criminal fault or wrongdoing); *provided, however*, that for the avoidance of doubt, this clause (xii) shall not apply to the settlement or resolution of Cure Costs which is addressed by Section 2.04;

(xiii) materially amend, modify, supplement or terminate any Material Contract (other than a Shared Customer Contract to the extent amended, modified, supplemented or terminated in accordance with Section 6.10) of the type set forth in clauses (v), (vi) (but solely to the extent such amendment, modification, or supplement is adverse to the Buyer or the Business), (vii), (xi), (xii), (xiii), (xiv), (xv), (xvii), (ix) (which for the avoidance of doubt shall be evaluated on an individual service order basis), (x) (but solely to the extent such settlements would require the consent of Buyer pursuant to Section 6.01(b)(xii)), (xvi) (but solely to the extent such amendment, modification, or supplement is adverse to the Buyer or the Business) or (i) (but solely with respect to any Affiliate or direct or indirect equityholder of any Seller Party (other than employees of a Seller Party), *provided*, that ordinary course intercompany arrangements amongst the Seller Parties shall not require Buyer consent under this clause (xiii)) of the definition thereof, or enter into any contract that would have been a Material Contract pursuant to clauses (v), (vi), (vii), (xi), (xii), (xiii), (xiv), (xv), (xvii), (ix) (which for the avoidance of doubt shall be evaluated on an individual service order basis), (xvi) (but solely to the extent such Contract is a standalone Contract for revenue or payments is in excess of \$500,000 per year and not pursuant to an existing Contract) or (i) (but solely with respect to any Affiliate or direct or indirect equityholder of any Seller Party (other than employees of a Seller Party), *provided*, that ordinary course intercompany arrangements amongst the Seller Parties shall not require Buyer consent under this clause (xiii)) of the definition of Material Contract if it had been entered into prior to the Agreement Date, in each case, other than expiration pursuant to the terms of such Material Contract;

(xiv) make any changes in financial accounting methods, principles, practices, procedures, or policies, except insofar as may be required by changes, after the Agreement Date (A) in accordance with GAAP consistently applied or (B) or any applicable Law;

(xv) grant any Top Customer or Top Vendor any material discounts, pricing accommodations, or other similar changes relating to pricing, payment terms or credit support (including any guarantee);

(xvi) other than in the Ordinary Course of Business, (A) make any unusual and extraordinary efforts to collect any accounts receivable, or liability for Debt, or give any discounts or concessions for early payment of such accounts receivable, or liability for Debt

or (B) make any sales of, or convey any interest in, any accounts receivable, or liability for Debt to any third party;

(xvii) cancel or permit to terminate any material Insurance Policy naming Seller Parent or a Subsidiary of Seller Parent as an insured, a beneficiary or a loss payable payee without first obtaining comparable substitute insurance coverage with no lapse in coverage;

(xviii) enter into any Contract evidencing new bookings where a new site or circuit is served by a direct type 2 circuit and, (A) in the case of existing customers, the resulting MRR charged to the customer for such site is not at least 60% above the type 2 circuit cost and (B) in the case of new customers, the resulting MRR charged to the customer for such site is not at least 80% above the type 2 circuit cost for new customers;

(xix) enter into, amend, modify, supplement or terminate any IRU Agreements or Contracts relating to the sale of “dark fiber”, other than expiration pursuant to the terms of such IRU Agreement or Contract;

(xx) enter into any Contract where the Non-Recurring Revenue for such Contract is in excess of \$100,000 and (A) is larger than the required capital expenditures for such Contract or (B) is billable prior to deploying the related capital expenditures for such Contract; and

(xxi) authorize any of, or commit, agree or promise in writing, enter into any legally binding commitment or otherwise with respect to any of the foregoing.

Section 6.02. Access to Information.

(a) During the Pre-Closing Period, upon reasonable prior written notice to Seller Parent, Seller Parent shall, and shall cause each of the other Seller Parties and shall direct its applicable Representatives to, at the sole cost and expense of Buyer, (i) afford Buyer and its Representatives and Affiliates reasonable access, during normal business hours, to the properties, books and records of the Business, (ii) furnish to Buyer and its Representatives and Affiliates such additional financial and operating data and other information regarding the Business as Buyer or its Representatives and Affiliates may from time to time reasonably request in connection with the Transactions, and (iii) make available to Buyer and its Representatives and Affiliates, during normal business hours, those directors, officers, employees, auditors, accountants, and other Representatives of the Seller Parties, except, in the case of clauses (i), (ii) and (iii), as set forth in Section 11.03.

(b) Notwithstanding anything in this Agreement to the contrary,

(i) (A) in no event shall the Seller Parties or their respective Affiliates be obligated to provide any (I) access or information in violation of any applicable Law (including Privacy Laws) or any Order of the Bankruptcy Court, (II) competitively sensitive information not related to the Transferred Assets, the Assumed Liabilities or the Business or any information the disclosure of which would reasonably be expected to (as determined in Seller Parent’s reasonable judgement on advice of legal counsel) jeopardize any applicable legal privilege (including the attorney-client privilege) available to any of the Seller Parties or any of their respective Affiliates

relating to such information; *provided, however*, that any competitively sensitive information related to the Transferred Assets, Assumed Liabilities, or the Business will only be shared pursuant to appropriate “clean team” procedures with “clean team” personnel, (III) information in connection with a proceeding between Buyer or any of its Affiliates, on the one hand, and any Seller Party or any of its Affiliates, on the other hand or (IV) information the disclosure of which would cause any Seller Party or any of their respective Affiliates to breach a confidentiality obligation to which it is legally bound and in existence on the Agreement Date; *provided, however*, in the case of clauses (I), (II), (III) and (IV), Seller Parties and their respective Affiliates shall be required to use commercially reasonable efforts to provide such information; *provided, further*, in the case of clauses (I), (II) or (IV), the applicable Seller Party shall provide Buyer a reasonably detailed description of the information not provided pursuant to the forgoing, and the applicable Seller Party and Buyer shall cooperate in good faith to design and implement alternative disclosure arrangements to enable Buyer and its Representatives to evaluate such information without such violation, forfeiture or breach, and (B) any access or investigation contemplated by Section 11.03 shall not unreasonably interfere with any of the businesses, personnel, or operations of any of the Seller Parties or any of their respective Affiliates, or the Business;

(ii) except as required in connection with Section 3.01, the auditors and accountants of any of the Seller Parties or any of their respective Affiliates or the Business shall not be obligated to make any work papers available to any Person except in accordance with such auditors’ and accountants’ normal disclosure procedures and then only after such Person has signed a customary agreement relating to such access to work papers in form and substance reasonably acceptable to such auditors or accountants; and

(iii) Buyer and its Representatives shall not conduct any sampling or testing of soil, groundwater, air, or other environmental media of any Seller Party without the prior written consent of the Seller Parties.

Section 6.03. Confidentiality.

(a) Buyer acknowledges that the Evaluation Material (as defined in the Confidentiality Agreements) provided to it in connection with this Agreement, including information provided under (d), is subject to the Confidentiality Agreements and the terms of the Confidentiality Agreements are incorporated into this Agreement by reference and shall continue in full force and effect (and all obligations thereunder shall be binding upon Buyer, and its Representatives, (as defined in the Confidentiality Agreements), in each case, as if such Person were a party thereto) until the Closing, at which time the obligations under the Confidentiality Agreements solely with respect to the Business and the Transferred Assets shall terminate (and for the avoidance of doubt, any obligations under the Confidentiality Agreements with respect to the Excluded Assets or Excluded Liabilities, shall survive in accordance with the terms and conditions of the Confidentiality Agreements). For the avoidance of doubt, Buyer shall be permitted to disclose any Evaluation Material as permitted by the terms and conditions of the Confidentiality Agreement. If for any reason the Closing does not occur and this Agreement is terminated, the Confidentiality Agreements shall continue in full force and effect in accordance with their respective terms; *provided, however*, that the term of the Confidentiality Agreements as set forth therein shall be amended to refer to two (2) years from the date of valid termination of this Agreement and the provisions in the Confidentiality Agreements which by their terms survive the

termination of the Confidentiality Agreements shall continue in full force and effect in accordance with their terms (as modified by the previous sentence). The Parties agree that the terms of the Confidentiality Agreement with respect to the disclosure of Evaluation Material (as such term is defined in the Confidentiality Agreement), and this Section 6.03, shall apply *mutatis mutandis* to any information provided on behalf of Buyer or any of its Affiliates or their respective Representatives (who shall be deemed the “Company” (as applicable) for purposes of the Confidentiality Agreement) to the Seller Parties and their Affiliates (who shall be deemed “Recipient” (as applicable) for purposes of the Confidentiality Agreement); *provided, however*, for the avoidance of doubt, (I) the “Representatives” (as such term is used in the Confidentiality Agreement) of the Seller Parties and Buyer shall be deemed to include the Seller Parties’ and Buyer’s existing lenders, and any transferees thereof, and, solely as relating to the Seller Parties, any Consultation Parties (as such term is defined in the Bidding Procedures Motion), each of whom the Seller Parties and Buyer (as applicable) shall be permitted to disclose Evaluation Materials thereto, and (II) the Seller Parties’ obligations thereunder shall terminate upon the earlier to occur of (x) the termination of the Confidentiality Agreement in accordance with its terms, (y) the two (2) year anniversary of the Closing Date, or (z) the Wind-Up Date.

(b) Notwithstanding the foregoing Section 6.03(a) and subject to Section 7.01 and Section 9.03, from and after Closing Date until the earlier to occur of the two (2) year anniversary of the Closing Date and the Wind-Up Date, Seller Parent shall, and shall cause the Seller Parties and its and their Affiliates to keep confidential all confidential information in such Seller Parties’ or its and their Affiliates’ possession or under such Seller Parties’ or its and their Affiliates’ control relating to the Business and which does not relate to any Excluded Asset or any Excluded Liability; *provided, however*, that this Section 6.03(b) shall not prohibit or otherwise restrict the Seller Parties or their Representatives and Affiliates from using or disclosing any such information (and only such portion of any information) to the extent reasonably necessary: to wind down the PA Business; in connection with the preparation or filing of any Tax Returns; for the payment, resolution, or settlement of any Cure Costs (or, in each case, any relevant disputes related thereto) in accordance herewith; or as otherwise required in connection with or relating to the Bankruptcy Cases or the wind up or dissolution or liquidation of the Seller Parties. Nothing in this Section 6.03(b) shall prevent the disclosure of any such information, knowledge or data that (i) prior to its disclosure by Seller Parent, Seller Parties or its and their Affiliates was available to the public, (ii) prior to its disclosure by Seller Parent, Seller Parties or its and their Affiliates was disclosed in any publicly available document, (iii) that is or becomes generally available to the public other than as a result of disclosure in violation of this Agreement, including this Section 6.03, (iv) if such disclosure is required by applicable Law, regulation, or legal or regulatory process or to any regulatory or supervisory organizations and rating agencies in connection with ordinary course examinations, reviews or requests by such organizations or agencies, (v) to Seller Parent’s Representatives who are informed by Seller Parent of the confidential nature of such information and are directed by Seller Parent to comply with the provisions of this Section 6.03, or (vi) is retained solely for the purposes of backup, recovery, contingency planning or business continuity planning so long as such information is not accessible in the Ordinary Course of Business and is not accessed except as required for backup, recovery, contingency planning or business continuity purposes.

Section 6.04. Regulatory Approvals.

(a) Subject to the terms of this Agreement, Seller Parent and Buyer shall, and shall cause their respective Affiliates to make all required filings (unless any Seller Party is required to make or jointly make a filing (and in such circumstances, the applicable Seller Party and/or Buyer (or its applicable Affiliates) shall make any such joint filing)) and use their respective reasonable best efforts to reasonably promptly obtain all Consents, Permits, and Orders of all Government Authorities (other than any required approvals or action of the Bankruptcy Court, which are governed exclusively by Article VIII) in each case as set forth on Schedule 6.04(a), which schedule may be updated upon express mutual written agreement of the Parties (each in the respective sole discretions) prior to the Closing Date (collectively, the “**Government Approvals**”).

(b) Seller Parent and Buyer shall, and shall cause their respective Affiliates to, reasonably cooperate with each other in determining whether any applications, notices, and requests are required or advisable to be filed with any Government Authority under any Antitrust Laws or Communications Law, in each case, in order to consummate the Transactions (which may be added to Schedule 6.04(a) as may be mutually agreed by Buyer and Seller Parent). Without limiting the generality of Buyer’s obligations under Section 11.01, to the extent required, each of the Parties shall make its respective filing under the HSR Act with respect to the Transactions within twenty-five (25) Business Days after the date of the Agreement Date, unless otherwise extended by mutual agreement between Seller Parent and Buyer. Without limiting the generality of Buyer’s obligations under Section 6.04(a), Seller Parent and Buyer shall prepare and file a joint voluntary notice (as defined by the DPA) with CFIUS as promptly as reasonably practicable after the Agreement Date in connection with the Transactions. Each of the Parties shall make the filings set forth on Schedule 6.04(a) pursuant to other Antitrust Laws or Communications Laws, in each case, as promptly as reasonably practicable following the Agreement Date. Seller Parent, Buyer, and the Buyer Parent Specified Persons, shall use their respective reasonable best efforts to take reasonable steps necessary to resolve as soon as reasonably practicable, but in any event not later than the Outside Date, any inquiry or investigation by any Government Authority relating to the Government Approvals under any Antitrust Law, the DPA or any Communications Law. In connection with any such inquiry or investigation, each Party shall respond appropriately as promptly as reasonably practicable to any request for additional information and documentary material pursuant to applicable Law, including any Antitrust Law, the DPA or Communications Law. Buyer shall not withdraw or refile its HSR Act filing, or other filing required by Antitrust Law, enter into any agreements to extend any HSR Act waiting period or any other waiting period under any other Antitrust Law or enter into any agreements (*i.e.*, timing or otherwise) to delay or not to consummate the Transactions for any period of time without the prior written consent of Seller Parent, not to be unreasonably withheld, conditioned or delayed. All filing fees related to the HSR Act or any other filings under any other Antitrust Laws, the DPA or under any Communications Laws shall, in each case, be borne by Buyer.

(c) Seller Parent, the other applicable Seller Parties, and Buyer shall prepare and file, or cause to be prepared and filed, as promptly as reasonably practicable (but in any event no later than seven (7) Business Days) after the entry of the Sale Order by the Bankruptcy Court, all FCC Applications required for FCC Approval. Subject to Section 6.04(e), Seller Parent shall, and shall cause its Affiliates to, provide to Buyer all information reasonably necessary for the

completion of the FCC Applications, and the Parties agree to cooperate reasonably, diligently, and in good faith with each other in the preparation of such FCC Applications. All filing fees related to the FCC Applications or any other filings under any other Communications Laws shall be borne by Buyer.

(d) Seller Parent, and the other applicable Seller Parties, and Buyer shall prepare and file, or cause to be prepared and filed, as promptly as reasonably practicable after the Agreement Date, all BTOP Applications required for NTIA/NOAA Approval, and (ii) any applications, notices, registrations or other filings required by any State PUC in connection with the Transferred Permits or for Buyer to obtain any authorization required in connection with the Transferred Assets. Subject to Section 6.04(e), Buyer shall, and shall cause its Affiliates, to provide to Seller Parent all information deemed reasonably necessary by Seller Parent for the completion of the BTOP Applications, and Buyer agrees to cooperate reasonably, diligently, and in good faith with Seller Parent in the preparation of such BTOP Applications. Seller Parent shall permit Buyer and its Representatives to review in advance and provide reasonable comments on the BTOP Applications before they are filed. Seller Parent shall, and shall cause other applicable Seller Parties, to provide to Buyer all information deemed reasonably necessary by Buyer for the completion of any applications, notices, registrations or other filings required by any State PUC, and Seller Parent and the applicable Seller Parties agree to cooperate reasonably, diligently, and in good faith with Buyer in the preparation of such State PUC filings.

(e) Each Party shall (i) promptly notify the other Party of any substantive oral or written communication it, or any of its Affiliates or its and their respective Representatives receive from any Government Authority relating to the matters that are the subject of this Section 3.01, (ii) permit the other Party and its respective Representatives to review in advance any substantive communication relating to the matters that are the subject of this (c) that are proposed to be made by such Party to any Government Authority and to provide the other Party with copies of all substantive correspondence, filings (excluding notification and report forms filed under the HSR Act), or other substantive communications between such Party, any of its Affiliates or any of its and their respective Representatives, on the one hand, and any Government Authority or members of its staff, on the other hand, relating to the matters that are the subject of this (c); *provided, however*, that, notwithstanding anything to the contrary in this Agreement, materials proposed to be submitted in response to any such Government Authority communication may be redacted or withheld by a Party: (A) to remove references concerning the valuation of the Business; (B) as necessary to comply with Contracts, applicable Law, or any Order of the Bankruptcy Court; and (C) as necessary to address reasonable attorney-client or other privilege or confidentiality concerns. No Party shall agree to participate in any substantive meeting or discussion (including by phone or video conference) with any Government Authority in respect of any such filings, investigation, or other inquiry unless it consults with the other Party in advance and, to the extent permitted by such Government Authority, gives the other Party the opportunity to attend and participate at such meeting or discussion (including by phone or video conference). Subject to the Confidentiality Agreements, the Parties will coordinate and cooperate fully with each other in exchanging such information and providing such assistance as the other Party may reasonably request in connection with the foregoing and in seeking early termination of any applicable waiting periods. The Parties shall share the right to control and direct the process by which the Parties seek to avoid or eliminate impediments under any Antitrust Law or any communications, trade regulation, or foreign investment regulation Law, including by directing the strategy and making

final determinations related to the review or investigation of the Transactions by any Government Authority. Nothing in this Section 6.04(e) shall be applicable to Tax matters.

(f) Each of Buyer Parent and Buyer shall not, and shall not permit any other Buyer Parent Specified Persons to, take any action (including acquiring or agreeing to acquire by merging or consolidating with, or by purchasing the assets of or equity in, or by any other manner, any Person or portion thereof, or otherwise acquiring or agreeing to acquire any assets) that would reasonably be expected to have the effect of (i) materially delaying, impairing or impeding the receipt of, or increasing the risk of not receiving, any required Government Approval, (ii) materially delaying, impairing, or impeding the expiration or termination of any applicable waiting period with respect to a Government Approval, (iii) materially increasing the risk of any Government Authority entering an Order prohibiting the consummation of the Transactions, or (iv) otherwise materially delaying the consummation of the Transactions. For the purposes of this Section 6.04(f), no Affiliate of Buyer (other than Buyer Parent Specified Persons) shall be subject to or required to take or refrain from taking any action under (nor shall the action or inaction of any such Affiliate be deemed to be a breach of) this Section 6.04(f).

(g) Notwithstanding the foregoing or anything to the contrary in this Agreement, nothing in this Agreement shall obligate Buyer, any Buyer Parent Specified Person or any other Affiliate of Buyer to: (i) propose, negotiate, commit to and effect by consent decree, hold separate, Order or otherwise, regardless of the consideration, the sale, divestiture, license or disposition of any assets or businesses of the Business or of Buyer, the other Buyer Parent Specified Persons or its Affiliates; (ii) otherwise take or commit to take any actions that after the Closing Date would limit Buyer's or its Affiliates', Buyer Parent Specified Persons' or the Business' freedom of action with respect to, or its ability to retain, one or more of its businesses, product lines or assets, or to avoid the entry of, or to effect the dissolution of, any injunction, temporary restraining Order or other legal requirement in any suit or other Action; (iii) pursue, commence or defend through any Action against any Government Authority or other Person; (iv) disclose or provide information that would reasonably be expected to jeopardize privilege or be in breach of a binding contractual obligation or duty of confidentiality; or (v) otherwise accept or agree to any requirements, restrictions or limitations on the conduct of the business of the Business, Buyer, the Buyer Parent Specified Persons or its or their Affiliates.

Section 6.05. Third Party Consents. Except for Government Approvals (which are governed by Section 6.04), each Party agrees to (and Seller Parent agrees to cause the other Seller Parties to) cooperate and use reasonable best efforts to obtain any other consents and approvals from any third person that may be required in connection with any Transaction (the "**Third Party Consents**"). Notwithstanding anything in this Agreement to the contrary, (a) except for Cure Costs or Non-Recurring Credits paid by Seller Parent with respect to any Transferred Contract, no Seller Party or any of its Affiliates (nor Buyer or any of its Affiliates) shall be required to compensate any third party, commence or participate in any Action, waive any condition under this Agreement, or offer or grant any accommodation (financial or otherwise, including any accommodation or arrangement to remain primarily, secondarily, or contingently liable for any Assumed Liability) to any third party to obtain any such Third Party Consent and (b) in no event shall Seller Parent amend, restate, modify or waive (or cause the amendment, restatement, modification or waiver) of any Contract for the purposes of obtaining any Third Party Consent without Buyer's prior written consent. For the avoidance of doubt, no representation, warranty, or

covenant of any Seller Party contained in this Agreement shall be breached or deemed breached, and no condition shall be deemed not satisfied solely based on (i) the failure in-and-of-itself to obtain any Third Party Consents or (ii) any Actions commenced or threatened by or on behalf of any Party based on the failure to obtain any such Third Party Consents; *provided, however*, that nothing in this Section 6.05 shall (x) prevent a claim by Buyer that any act or omission of any Seller Party underlying such failure was a breach of this Agreement or (y) limit any Seller Party's obligation to comply with their covenants herein, including to cooperate and utilize such Person's reasonable best efforts to obtain any such Third Party Consent.

Section 6.06. Certain Capital Expenditures. From and after the date hereof until the earlier to occur of the valid termination of this Agreement and the Closing Date, the Seller Parties will use their respective commercially reasonable efforts (taking into account the Seller Parties' financial and liquidity position at the time of any determination to (or not to) make any such expenditure) to incur and spend Non-Success Based Capex in accordance with the Agreed Financial Budget.

Section 6.07. Bulk Transfer Laws. The Parties acknowledge and agree that Seller Parties may not comply with the provisions of any bulk transfer Laws or similar Laws of any jurisdiction in connection with the Transactions and Buyer hereby waives all claims related to noncompliance therewith.

Section 6.08. Employee Matters.

(a) Employment of All Covered Employees. All Covered Employees (including those on temporary furlough, leave of absence (including medical leave, military leave, or workers compensation leave) or short-term or long-term disability) may receive from Buyer or an Affiliate of Buyer, in Buyer's sole discretion (including, for the avoidance of doubt, on an employee-by-employee basis), a written offer of employment, to commence as of 12:01 a.m. local time on the Closing Date, and subject to the Closing, no earlier than four (4) months following the designation of Buyer as the successful bidder following the auction, if any, and no later than fifteen (15) Business Days prior to the Closing Date (and in any event no later than fifteen (15) Business Days prior to the Closing Date) (or, for any Covered Employee hired by any Seller Party after written offers of employment are initially issued, as soon as reasonably practicable) and Buyer shall notify Seller Parent of each Covered Employee who is receiving an offer of employment as soon as reasonable but not later than the date of any such offer. Each offer of employment made by Buyer or an Affiliate of Buyer to a Covered Employee shall be subject to and conditioned upon the satisfaction of Buyer's or its applicable Affiliate's customary pre-employment screening process in accordance with Buyer's or its applicable Affiliate's past practice, and provide for: (i) an annual base salary or hourly wage rate, as applicable that is subject to Buyer's discretion and existing policies, (ii) retirement, health and welfare benefits (excluding nonqualified deferred compensation, equity or equity-based, incentive, commission, change in control, transaction, retention, defined benefit pension and post-employment or retiree health and welfare benefits (collectively, the "**Excluded Benefits**")) that are substantially comparable, in the aggregate, in Buyer's discretion, to (A) those provided to such Covered Employee immediately prior to the Closing under the Employee Plans listed on Schedule 4.13(a), (B) those provided to similarly situated employees of Buyer or its Subsidiaries or (C) some combination of clause (A) and clause (B), in each case, excluding the Excluded Benefits; and (iii) severance payments and benefits that

are no less favorable than either (A) those set forth on Schedule 6.08(a), as applicable to the respective Covered Employee, or (B) the severance payments and benefits applicable to similarly situated employees of Buyer or its Affiliates, in each case for clause (A) and clause (B), as determined in the sole discretion of Buyer and its Affiliates (clause (i) to clause (iii), collectively, the “**Employment Terms**”). Buyer shall provide a form of such offer of employment to Seller Parent for its review and comment (and Buyer agrees to consider all timely and reasonable comments of Seller Parent or its counsel) no later than two (2) Business Days prior to issuing the offers of employment. On or before the date that is five (5) Business Days prior to the Closing Date, Buyer shall notify Seller Parent as to each Covered Employee who has affirmatively accepted employment with Buyer or its Affiliate and each Covered Employee who has rejected, not satisfied Buyer’s or its Affiliate’s customary pre-employment screening process in accordance with Buyer’s or its applicable Affiliate’s past practice, or not responded to an offer of such employment. For purposes of this (vi), any Covered Employee who becomes employed by Buyer or an Affiliate of Buyer in accordance with this (v) is referred to as a “**Transferred Employee**.” The Parties shall exercise commercially reasonable efforts to structure such offers of employment to ensure that the terms of such offers do not (i) constitute an employment loss under the WARN Act; or (ii) trigger any severance, termination, or similar payments, rights, or benefits. Effective as of the Closing, each Transferred Employee who is a participant in any Employee Plan that is not an Assumed Employee Plan shall cease to accrue benefits under and be an active participant in any such Employee Plan (unless otherwise expressly provided for under such Employee Plan or required by applicable Law). Effective as of the Closing Date (except as otherwise expressly provided for in this Section 6.08), each Transferred Employee who, as of the Closing Date, is a participant in any Employee Plan that is not an Assumed Employee Plan shall commence participation in the Buyer Plans (or continue participation in the Assumed Employee Plans, to the extent applicable).

(b) Employees and Employee Plans.

(i) Liabilities. Effective as of the Closing, Buyer shall, or shall cause an Affiliate to, assume or retain, as the case may be, any and all Liabilities (contingent or otherwise), (x) arising out of, relating to, or resulting from the employment or services, or termination of employment or services, of any Transferred Employee, arising on and after the Closing Date, or (y) to the extent provided for in this (ix) or on Schedule (ix)(b)(i).

(ii) Employee Plans. The Seller Parties shall retain sponsorship of and be solely responsible for each Employee Plan that is not an Assumed Employee Plan and any Liabilities arising from, relating to, or resulting from such retained Employee Plans shall be Excluded Liabilities, irrespective of when such Liabilities relate to or arise.

(c) Transferred Employees – Additional Employment Terms.

(i) Terms and Conditions of Employment. For a period of at least twelve (12) months following the Closing Date (or, if earlier, until the relevant Transferred Employee’s termination of service following Closing), Buyer shall not and shall cause its Affiliates not to, materially reduce, decrease, or detrimentally change the Employment Terms (except to the extent that similarly situated employees of Buyer and its Affiliates are similarly impacted by any such reduction, decrease, or detrimental change); *provided, however*, nothing in this Agreement

shall prevent Buyer from terminating employees at its sole discretion in accordance with applicable Law.

(ii) Credit for Service. Buyer shall, and shall cause its Affiliates to, credit Transferred Employees for service earned on and prior to the Closing Date with any of the Seller Parties and any of their respective Affiliates or predecessors, in addition to service earned with Buyer and its Affiliates on or after the Closing Date, (A) to the extent that service is relevant for purposes of eligibility to participate, vesting, calculation of severance payments and/or benefits and future vacation/PTO accrual under any employee benefit plan, program, or arrangement of Buyer or any of its Affiliates in which such Transferred Employee participates on or after the Closing Date (the “**Buyer Plans**”) to the same extent and for the same purposes as such service was credited under the analogous Employee Plan in which such Transferred Employee participated immediately prior to the Closing Date and (B) for such additional purposes as may be required by applicable Law; *provided, however*, that nothing herein shall apply for any purposes under any Excluded Benefit or to the extent that it would result in a duplication of benefits, compensation or coverage for the same period of service.

(iii) Pre-existing Conditions; Coordination. For the plan year in which the Closing Date occurs, Buyer shall, and shall cause its Affiliates to use commercially reasonable efforts to (i) waive any pre-existing condition or actively at work limitations, evidence of insurability, and waiting periods for the Transferred Employees and their eligible spouses and dependents under any Buyer Plans that are group health plans to the same extent waived or satisfied under the analogous Employee Plan in which such Transferred Employee participated immediately prior to the Closing Date and (ii) credit, for purposes of determining and satisfying the corresponding annual deductibles, co-insurance, co-pays, out-of-pocket limits, and other applicable limits under the Buyer Plans that are group health plans, deductibles, co-insurance, co-pays, and out-of-pocket expenses paid by Transferred Employees and their respective spouses and dependents under the Employee Plans that are group health plans in the plan year in which the Closing Date occurs.

(d) Employee Communication. Prior to the Closing, except as required by Law, neither Party shall issue any broad-based, written communication (including any electronic communication) relating to the Transactions to the Covered Employees (or their representatives, if any) relating to post-Closing employment-related matters without the prior written approval of the other Party (which approval shall not be unreasonably conditioned, withheld, or delayed). Except as required by Law or any Order of the Bankruptcy Court, the Parties shall consult with each other in good faith as to the contents, scope, form, and timing of any such broad-based, written communications by either Party with the Covered Employees (or their Representatives, if any) and neither Party shall make any representations (on behalf of itself or the other Party) relating to post-Closing employment-related matters.

(e) 401(k) Plan. Effective as of as soon as administratively practicable following the Closing Date (but in no event more than thirty (30) days thereafter), Buyer shall have, or shall cause its Affiliates to have, in effect a defined contribution plan that is intended to be qualified under Section 401(a) of the Code and that includes a qualified cash or deferred arrangement within the meaning of Section 401(k) of the Code (the “**Buyer Savings Plan**”) in which Transferred Employees shall be eligible to participate in accordance with its terms. Buyer

shall cause, to the extent permitted by applicable Law, the Buyer Savings Plan to accept the direct rollover of electing Transferred Employees' account balance that is eligible for rollover under any Employee Plan that is a cash or deferred arrangement under Section 401(k) of the Code (the "**Seller 401(k) Plan**"), in cash. Prior to the Closing Date, the applicable Seller Party shall (i), to the extent applicable, take all actions necessary or appropriate to, effective as of the Closing Date, cause all Transferred Employees to be fully vested in their account balances and accrued benefits under the Seller 401(k) Plan and (ii) make or cause to be made to the Seller 401(k) Plan all employer contributions that would have been required to be made in accordance with the terms of the Seller 401(k) Plan on behalf of the Transferred Employees.

(f) 401(k) Plan Wind-down. Following the Closing Date and prior to the Wind-Up Date, the applicable Seller Party shall take or cause to be taken all actions as are necessary or appropriate to terminate the Seller 401(k) Plan and each other Employee Plan that is a group health or welfare plan that is not an Assumed Employee Plan, in accordance with their respective terms and in compliance with the requirements of all applicable Laws. For the avoidance of doubt, the Seller Parties shall be solely responsible for any costs or other Liabilities arising in connection with the wind-down of the Seller 401(k) Plan and each other Employee Plan that is a group health or welfare plan that is not an Assumed Employee Plan.

(g) Alternate Procedure. Buyer and Seller Parent agree to utilize the "alternate procedure" of Section 5 of Revenue Procedure 2004-53, 2004-34 IRB 320 issued by the IRS, pursuant to which, Buyer or an Affiliate thereof will be responsible for all employment tax reporting, including Forms W-2, with respect to all payments made to the Transferred Employees during the calendar year in which the Closing occurs, including payments made by the Seller Parties. Seller Parent will provide such documents and other information to Buyer as are reasonably necessary in order to enable Buyer or its applicable Affiliate to timely satisfy its obligations under this subsection.

(h) COBRA Coverage. For so long as any Seller Party or any of their ERISA Affiliates (other than the Business) maintains a group health plan, the Seller Parties (and such ERISA Affiliate(s)) shall be solely responsible for any and all Liabilities arising under COBRA with respect to any "M&A Qualified Beneficiaries" (as that term is defined in Treasury Regulation Section 54.4980B-9). To the extent that all Seller Parties and all of their ERISA Affiliates (other than the Business) cease to maintain a group health plan prior to, as of or following the Closing Date, Buyer will be responsible for providing continuation coverage required under COBRA to all Covered Employees, Former Covered Employees, and their respective spouses and dependents who are or become "M&A Qualified Beneficiaries" (as such term is defined in Treasury Regulation Section 54.4980B-9) as a result of the consummation of the Transactions and any other former employee of Seller Parent or any of its Subsidiaries that is receiving continuation coverage under COBRA as of immediately prior to Closing.

(i) Restrictive Covenants. Seller Parent agrees on behalf of itself and the other Seller Parties that, notwithstanding the terms of any restrictive covenant agreement between any of the Seller Parties, on the one hand, and any Transferred Employee, on the other hand, such Transferred Employee shall be permitted to provide services to or be employed by Buyer or its Affiliates following the Closing. Seller Parent shall not, and shall cause the other Seller Parties

not to, seek to enforce the terms of any such restrictive covenant agreement following the Closing to prevent any Transferred Employee's employment with Buyer and/or its Affiliates.

(j) 2025 Annual Bonuses. Buyer shall, or shall cause its Affiliates to, pay to each eligible Covered Employee that is listed on Schedule 1.01(b) as having a "bonus target", who becomes a Transferred Employee, within thirty (30) days following the Closing Date (without regard to whether the Transferred Employee is employed by Buyer or one of its Affiliates on such payment date), an amount equal to such Transferred Employee's annual cash bonus under the applicable Everstream Annual Incentive Bonus Plan in respect of the 2025 fiscal year as in effect on the Agreement and set forth on Schedule 4.13(a), which amount is prorated for the pre-Closing portion of such year, and calculated based on actual performance for such year from January 1, 2025 until the most recently closed calendar month immediately prior to the Closing Date, as determined by Seller Parent on or prior to the Closing Date (the aggregate amount of such prorated bonuses, the "**Pro Rata Annual Bonus Amount**"). Seller Parent shall provide the aggregate amount of the Pro Rata Annual Bonus Amount and the allocation of the Pro Rata Annual Bonus Amount among the eligible Transferred Employees to Buyer or its Affiliate on or prior to the Closing Date.

(k) Paid Time Off. To the extent permitted by applicable Law, Buyer or any Affiliate of Buyer who employs the Transferred Employees shall assume any accrued but unused vacation or other paid time-off for each Transferred Employee as of the Closing Date, and Transferred Employees shall be permitted to use such paid time-off in a manner that is consistent with Buyer's or its Affiliate's applicable policies, as in effect from time to time. The Parties will request that each Transferred Employee consent in writing to (i) Buyer's assumption of any unused and accrued vacation or other paid time-off as of the Closing Date, and (ii) waive any right from Seller Parent to the same.

(l) WARN. On or before the Closing Date, Seller Parent shall provide a list of the names and sites of employment of any and all employees of the Seller Parties who have experienced, or will experience, an employment loss or layoff as defined under the WARN Act within ninety (90) days prior to the Closing Date. Seller Parent shall update this list up to and including the Closing Date. For a period of ninety (90) days after the Closing Date, Buyer shall make commercially reasonable efforts to not engage in any conduct which would result in an employment loss or layoff for a sufficient number of employees of Buyer which, if aggregated with any such conduct on the part of any Seller Party prior to the Closing Date, would trigger the WARN Act.

(m) No Third Party Beneficiaries. Notwithstanding the provisions of this (xv) or any provision of this Agreement, nothing in this (ix) is intended to and shall not (i) create any third party rights, (ii) subject to compliance with the other requirements of this (ix), amend, establish or modify any Employee Plan or any other benefit or compensation plan, program, policy, or arrangement, (iii) subject to compliance with the other requirements of this (ix), require Buyer or any of its Affiliates, or any Seller Party or any of its Affiliates, as applicable, to continue any employee benefit plan, program, policy, or arrangement, (iv) provide any Covered Employee or any Transferred Employee with any rights to continued employment or (v) subject to compliance with the other provisions of this (ix) limit, prevent or impair Buyer or any of its Affiliates from (A) amending, modifying or terminating any Employee Plan or any other benefit or compensation

plan, program, policy, agreement or arrangement in accordance with its terms or (B) terminating the employment of any employee for any reason or no reason in accordance with applicable law.

Section 6.09. Guarantees; Other Obligations. At or before the Closing, the Parties shall use reasonable best efforts to either: (a) arrange for substitute letters of credit, Buyer guarantees, and other obligations (“**Replacement Guarantees**”) to replace (i) the Seller Guarantees set forth on Schedule 6.09, and (ii) solely with the prior written consent of Buyer (in its sole discretion) any Seller Guarantees entered into during the Pre-Closing Period; or (b) take action to have Buyer assume all obligations under each Seller Guarantee, obtaining from the creditor, beneficiary, or other counterparty a full release (in a form reasonably satisfactory to Seller Parent) of all Seller Parties (or Affiliates thereof) liable, directly or indirectly, for reimbursement to the creditor or fulfillment of other obligations to a beneficiary or counterparty in connection with amounts drawn under the Seller Guarantees. To the extent the beneficiary or counterparty under any Seller Guarantee does not accept as of the Closing any Replacement Guarantees (such Seller Guarantee, until terminated or replaced in accordance herewith, an “**Open Guarantee**”), effective from and after the Closing Date, Buyer shall, and shall cause each of its Affiliates to, (I) indemnify, defend, and hold harmless Seller Parent and its Affiliates against, and reimburse Seller Parent and its Affiliates for, all reasonable and documented out-of-pocket costs or expenses paid by Seller Parent, directly relating such Open Guarantee being drawn upon or required to be performed (including the amount so drawn), and shall in any event promptly reimburse Seller Parent and its Affiliates if an Open Guarantee is called upon and Seller Parent or its Affiliates make any payment or are obligated to reimburse the party issuing the Open Guarantee and (II) not, without Seller Parent’s prior written consent, amend in any manner adverse to Seller Parent or any of its Affiliates, or extend (or permit the extension of), any Open Guarantee or any obligation supported by any Seller Guarantee. From and after the Closing Date until the earlier of (x) the six-(6) month anniversary of the Closing and (y) the replacement of the applicable Open Guarantee in accordance herewith, each applicable Seller Party (i) shall (for the benefit of Buyer) maintain and (ii) shall not amend, or modify any such Open Guarantee without Buyer’s prior written consent.

Section 6.10. Shared Customer Contracts.

(a) With respect to any Shared Customer Contract: (i) on or prior to the Designation Deadline, Buyer may elect, by written notice to Seller Parent (a “**Shared Contract Designation Notice**”), each Shared Customer Contract Buyer wishes to be assigned to it at the Closing and (ii) from and after the Designation Deadline until the Closing, Seller Parent and Buyer shall, and shall cause their respective Affiliates to, each use their respective commercially reasonable efforts to, and reasonably cooperate with each other, and the applicable counterparty, to, separate or amend any such Shared Customer Contract (or take such other action as may be reasonably necessary) in order to provide for a mutually acceptable allocation of the rights and obligations under such Shared Customer Contract in line with the allocation of Transferred Assets, Excluded Assets, Assumed Liabilities, and Excluded Liabilities between the Parties (each such Shared Customer Contract that is so separated or amended to apply only to the Business to the exclusion of the Excluded Business, a “**Separated Business Contract**”), and Seller Parent shall reasonably consult with (and in good faith consider the comments of) Buyer and its counsel regarding such Separated Business Contract (including the negotiation and terms thereof); *provided, however*, that no such separation or amendment (or other arrangement) shall become effective prior to the Closing unless otherwise agreed by the Parties (in their respective sole

discretion); *provided, further*, that solely with respect to Undisclosed Contracts that are also Shared Customer Contracts discovered following the Designation Deadline, Buyer shall be permitted to designate such Undisclosed Contracts as a Shared Customer Contract or Separated Business Contract until the date that is fourteen (14) days following the date of discovery by Buyer (or notice thereof by the Seller Parties) (and for such Undisclosed Contracts, the “Designation Deadline” shall be such extended date). Any amendment to, modification to or waiver of a Shared Customer Contract or a Separated Business Contract that adversely affects Buyer or the Business shall be in form and substance reasonably acceptable to Buyer (any such Contract where Buyer’s consent is so required, but not yet obtained, a “**Specified 6.10 Contract**”). Neither Seller Parent, Buyer, nor any of their respective Affiliates shall be required to do any of the following: (A) separate, amend or modify or take any other action under this Section 6.10 with respect to any Shared Customer Contract for which a Shared Contract Designation Notice has not been timely delivered, (B) adversely modify, relinquish, narrow, or forbear any material right that constitutes an Excluded Asset, Transferred Asset, Excluded Liability or Assumed Liability, as applicable, to any Party, or (C) other than Cure Costs or Non-Recurring Credits, pay any monetary consideration to any Person for the purpose of separating or amending any such Shared Customer Contract (and any such other monetary consideration, to the extent not an Excluded Liability, shall be subject to Buyer’s prior written consent).

(b) With respect to any Shared Customer Contract that is separated or amended (and therefore becomes a Separated Business Contract) on or prior to the Closing: (i) all Cure Costs or Non-Recurring Credits (if any) that are agreed among the applicable parties with respect to such Contract shall be paid by Seller Parent on or before Closing; (ii) such Separated Business Contract shall be deemed effective as of immediately prior to the Effective Time; (iii) such Separated Business Contract shall be deemed a Transferred Contract for the purposes hereof and be automatically added to Schedule 2.01(a)(iii)(D); and (iv) such Separated Business Contract shall provide Buyer equivalent, in all material respects, contract rights and obligations under the Separated Business Contract to those contract rights and obligations under such Shared Customer Contracts utilized by the applicable Seller Party in the conduct of the Business (including as to any pricing metrics).

(c) If any Shared Customer Contract for which a Shared Contract Designation Notice was timely delivered is not so separated or amended at or prior to the Closing Date (such Contract, for so long as it has not been separated and thus continues to be a Shared Customer Contract, a “**Non-Separated Contract**”), then, after the Closing until the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), to the extent permissible by Law and under the terms of the applicable Shared Customer Contract, Seller Parent shall (and shall cause the applicable Seller Party or its Affiliates to) (i) solely if Buyer elects, in its sole and absolute discretion, to have such Non-Separated Contract assigned in full to Buyer (or its designee), assign, transfer and convey such Non-Separated Contract (to the extent so assigned, transferred and conveyed to Buyer hereunder, a “**Non-Separated Assumed Contract**”), which shall be deemed a Transferred Contract for the purposes hereof and be automatically added to Schedule 2.01(a)(iii)(D) upon such proper assignment, transfer and conveyance, and thereafter Buyer shall use reasonable best efforts to enter into an Interim Arrangement either with the applicable Seller Parties and/or with any third parties holding interests in the Excluded Business party to such Non-Separated Assumed Contract to, subject to applicable Law or Order of the Bankruptcy Court, provide such Seller Parties or third- parties the

benefits and pass along the economic burdens associated with such Non-Separated Assumed Contract, solely to the extent such obligations or burdens are obligations of the Excluded Business or of such Seller Party or third party prior to the Closing Date or (ii) solely if Buyer does not elect, in its sole and absolute discretion, to have such Non-Separated Contract assigned in full to Buyer (or its designee) pursuant to Section 6.10(c)(i), (A) assume and perform the liabilities under such Shared Customer Contract, (B) hold in trust for the benefit of Buyer, and shall promptly forward to Buyer, all monies (net of applicable Taxes, if any, imposed by a Government Authority in connection with the receipt of such monies) and other benefits received pursuant to such Shared Customer Contract and (C) use commercially reasonable efforts to institute alternative arrangements intended to establish reasonable and lawful arrangements designed to provide the Buyer with all the rights, benefits and obligations under such Shared Customer Contract; *provided, however*, that, notwithstanding the foregoing, (w) following the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), Seller Parent and the applicable Seller Parties shall not have any obligation to renew any Shared Customer Contract upon the expiration or termination thereof, (x) prior to the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), Seller Parent and the applicable Seller Party shall not extend the term or otherwise amend the terms of any Shared Customer Contract in a manner that would adversely affect Buyer, such Shared Customer Contract, the Transferred Assets or the Business upon obtaining a Separated Business Contract without Buyer's prior written consent, (y) prior to the Cut-Off Date (or the date such Non-Separated Contract is separated or amended into a Separated Business Contract, if earlier), to the extent any such Shared Customer Contract contains an "evergreen" provision that automatically renews such Shared Customer Contract, the applicable Seller Parties shall be prohibited from terminating or canceling such Shared Customer Contract as permitted pursuant to the terms thereof without Buyer's prior written consent and (z) other than Cure Costs or Non-Recurring Credits, neither Seller Parent nor the applicable Seller Parties shall have any obligation to make any material payments or offer or grant any concession or accommodation (financial or otherwise) or commence or participate in any Action in order to obtain any consents or approvals of third parties or effect the transfers or arrangements contemplated by this Section 6.10(c).

(d) For the avoidance of doubt, this Section 6.10 shall solely apply to Shared Customer Contracts, Separated Business Contracts and Non-Separated Contracts.

Section 6.11. Section 280G. To the extent that any "disqualified individual" (within the meaning of Section 280G(c) of the Code and the regulations thereunder) has the right to receive or retain any payments, rights or benefits that could reasonably be expected to constitute "parachute payments" (within the meaning of Section 280G(b)(2)(A) of the Code and the regulations thereunder), then, prior to the Closing Date, Seller Parent will, or will cause one of its Subsidiaries to, (a) solicit from each such "disqualified individual" a waiver of such disqualified individual's rights to some or all of such payments, rights or benefits (the "**Waived 280G Benefits**") so that any remaining payments, rights and/or benefits shall not be deemed to be "excess parachute payments" (within the meaning of Section 280G of the Code and the regulations thereunder), and (b) with respect to each such "disqualified individual" who agrees to the waiver described in clause (a), submit to a vote of holders, directly or indirectly, of the equity interests of Seller Parent or the relevant Affiliate entitled to vote on such matters, the right of any such "disqualified individual" to receive or retain the Waived 280G Benefits. The Parties acknowledge that this (c) shall not apply to any arrangements entered into at the direction of Buyer or any of its

Affiliates or between Buyer and any of its Affiliates, on the one hand, and a disqualified individual, on the other hand (“**Buyer Arrangements**”) unless at least ten (10) Business Days prior to the Closing Date, Buyer provides true, correct and complete copies of any written Buyer Arrangements (or a written description of any unwritten Buyer Arrangements) and the value for purposes of Section 280G of the Code of such Buyer Arrangements, with any updates with respect to any changes to such Buyer Arrangements that would affect in any material respect the Section 280G analysis or disclosure provided no later than six (6) Business Days prior to the Closing Date. If such copies (or written descriptions) and value of such Buyer Arrangements or changes thereto are not so timely provided, then compliance with this Section 6.11 shall be determined as if such Buyer Arrangements or changes thereto had not been entered into. The Parties acknowledge that neither Seller Parent nor any of its Subsidiaries can compel any disqualified individual to waive any existing rights under a contract with Seller Parent or any of its Affiliates and neither Seller Parent nor any of its Affiliates shall be deemed in breach of this (e) with respect to any “disqualified individual” who refuses to waive any such right. Seller Parent nor any of its Affiliates shall not pay or provide or permit any “disqualified individual” to retain any of the Waived 280G Benefits, if such Waived 280G Benefits are not approved by the holders of the equity interests of Seller Parent or the relevant Affiliate as contemplated above. No later than five (5) Business Days before the Closing Date, Seller Parent shall provide to Buyer or its counsel drafts of the consent, waiver, disclosure statement and calculations necessary to effectuate the approval process and shall incorporate all of Buyer’s reasonable and timely comments. Prior to the Closing Date, Seller Parent shall deliver to Buyer evidence reasonably satisfactory to Buyer that (i) the requisite approval was obtained in conformance with Section 280G of the Code and the regulations thereunder, or (ii) such approval has not been obtained with respect to the Waived 280G Benefits, and, as a consequence, the Waived 280G Benefits have not been and shall not be retained, paid or provided.

Section 6.12. Financing.

(a) During the Pre-Closing Period, and unless otherwise agreed in writing by Buyer, Seller Parent shall and shall cause each of its Subsidiaries to, and each of them shall use their reasonable best efforts to cause their respective Affiliates and Representatives with appropriate seniority and expertise to, in each case, cooperate with Buyer as reasonably requested by Buyer, and at Buyer’s sole expense, in connection with Buyer’s arrangement, marketing, syndication and consummation of the Debt Financing. Such assistance shall include using reasonable best efforts to: (i) upon reasonable advance notice, participate (including using reasonable best efforts to cause members of management, with appropriate seniority and expertise, and other necessary Representatives of Seller Parent, in each case to participate) in a reasonable number of meetings, presentations, conference calls, and due diligence sessions with any Debt Financing Source and such Debt Financing Source’s (and their respective Affiliates’) Representatives, that are customary for financings of the type similar to the Debt Financing at reasonable times (and to the extent necessary one or more conference calls with prospective Debt Financing Sources); (ii) reasonably assist (including participating in drafting sessions) with the preparation of materials, in each case to the extent such materials relate to information concerning any Seller Party for rating agency presentations, lender presentations, and similar documents customarily required in connection with the Debt Financing; (iii) furnish Buyer and its Debt Financing Sources promptly (and in any event at least five (5) Business Days prior to the Closing Date) with information legally required under applicable “know your customer” and anti-money

laundering rules and regulations and requested in writing by Buyer at least nine (9) Business Days prior to the Closing Date; (iv) furnish as promptly as practicable to Buyer, the Financial Statements and the Supplemental Financial Statements; (v) assist in the preparation of the definitive documentation in connection with the Debt Financing and the schedules and exhibits thereof including loan agreements, guarantees, collateral agreements, legal opinions and officer's certificates and facilitating the pledging of collateral; (vi) reasonably cooperate with the due diligence efforts of Buyer and the Debt Financing Sources; (vii) furnish customary authorization letters to the Debt Financing Sources, authorizing the distribution of information to prospective lenders or investors and other financing sources; and (viii) cooperate with Buyer to satisfy the conditions precedent to the Debt Financing to the extent within the control of Seller Parent, the Seller Parties and their respective Subsidiaries; *provided, however*, that such cooperation does not: (A) require (I) the entry by Seller Parent or any of its Affiliates into any agreement (whether or not conditioned on the Closing) (other than the customary authorization letters specified in Section 6.08(j)(vii)), or (II) any Seller Party or its directors, officers, managers, general partners, or employees to execute, deliver or enter into, or to perform, any agreement, document, or instrument with respect to the Debt Financing, other than the customary authorization letters specified in Section 12.10(vii) and except to the extent that such directors, officers, managers, general partners, or employees will continue in such roles under the employment or engagement of Buyer and its Affiliates following the Closing, (B) cause any director, officer, manager, or Covered Employee to incur any personal liability, (C) require the delivery of any projections or pro forma financial information to any third parties (other than, for the avoidance of doubt, the financial and other pertinent information necessary for the Buyer to prepare its own pro forma financial information), (D) require the delivery of any financial statements in a form not prepared in the Ordinary Course of Business of Seller Parent and its Subsidiaries, (E) require delivery of any legal opinions or accountants' cold comfort letters or reliance letters, (F) require any Seller Party to pay any commitment or other fee, provide any security, or incur any Liability or other obligation (in each case, other than the representations and warranties of Seller Parent and the Seller Parties in this Agreement (including in Article IV), and subject to the cooperation provided in this (g)) in connection with, relating to, or arising out of, the Debt Financing or any other financing, (G) require any Seller Party to take or permit the taking of any action that would reasonably be expected to conflict with, result in any violation or breach of, or default (with or without lapse of time, notice or both) under, the Seller Parties' Organizational Documents, or any applicable Law (including any Order of the Bankruptcy Court) or material Contracts of any of the Seller Parties (*provided* that such Organizational Documents or Contracts were not entered into, amended or modified for the purposes of circumventing the cooperation required pursuant to this Section 6.12), or (H) require any Seller Party, any of its Subsidiaries or any of their respective directors or officers, to take any action in the capacity as an equity owner or a member of the board of directors or governing body of any Seller Party or its Subsidiaries to authorize or approve the Debt Financing except to the extent that any such directors serve in such role under the engagement of Buyer and its Affiliates following the Closing. All non-public or otherwise confidential information regarding any Seller Party obtained by Buyer pursuant to this Section 6.10(c) shall be kept confidential in accordance with Section 6.03. As a condition to Seller Parent's obligations pursuant to this Section 6.12(a) and subject to Section 8.01, Buyer shall promptly, upon request by Seller Parent, reimburse Seller Parent for all reasonable and documented out-of-pocket costs and expenses (including reasonable and documented attorney's fees and expenses and disbursements) incurred by any Seller Party in connection with the cooperation contemplated by this Section

6.12(a) and in connection with the Debt Financing. Buyer shall indemnify and hold harmless Seller Parent and its Subsidiaries and Affiliates and their respective Representatives from and against any and all losses or other Liabilities suffered or incurred by them in connection with the arrangement of the Debt Financing, any action taken by them at the request of the Buyer pursuant to this Section 6.12(a), and any information utilized in connection therewith (other than information provided by Seller Parent and its Subsidiaries and their Affiliates expressly for use in connection with the marketing of the Debt Financing); *provided, however*, that this indemnification shall not apply to the extent that the relevant losses or other Liabilities result from Seller Parent's and its Affiliates' and Subsidiaries' or other Representatives' Fraud or Willful Breach, in each case as determined by a final and non-appealable judgment of a court of competent jurisdiction.

(b) Seller Parent consents to the reasonable use of Seller Parent's and its Subsidiaries' logos in connection with the Debt Financing in a manner customary for such financing transactions, *provided* that such logos are used solely in a manner that is not intended to or reasonably likely to harm or disparage Seller Parent and its Subsidiaries or any of their Affiliates or the reputation or goodwill of Seller Parent and its Subsidiaries or any of their Affiliates.

(c) Buyer shall not permit any assignment of the Debt Commitment Letter, or any amendment or modification to be made to, or any waiver of any provision or remedy under, the Debt Commitment Letter, in each case without obtaining Seller Parent's prior written consent; *provided* that Buyer (or its Affiliates) may assign, amend, waive, supplement, or otherwise modify the Debt Commitment Letters so long as such amendment, waiver, supplementation or modification would not (i) reduce the aggregate amount of the Debt Financing (when taken together with Other Sources) to an amount less than the Required Financing Amount or (ii) impose new or additional conditions or otherwise expand, amend or modify in a manner materially adverse to Buyer (or its Affiliates) or the Seller Parties any of the conditions to the Debt Financing, or otherwise expand, amend or modify any other provision of the Debt Commitment Letter, in a manner that would reasonably be expected to materially delay or prevent or make materially less likely the funding of the Debt Financing (or the satisfaction of the conditions to the Debt Financing) at the Closing or impair the ability of Buyer to consummate the Transactions (such amendments, waivers, supplements and modifications described in Section 6.10(c)(i) and this Section 6.10(c)(ii) are referred to herein, collectively, as **"Prohibited Amendments"**) (*provided* that subject to compliance with the other provisions of this Section 6.10(c), Buyer (or its Affiliates) may amend the Debt Commitment Letters to (x) add additional lenders, arrangers, bookrunners, agents or similar entities and (y) implement or exercise any economic "flex" provision).

(d) Buyer shall use its reasonable best efforts to arrange the Debt Financing and obtain the financing contemplated thereby on the terms and conditions described in each Debt Commitment Letter (giving effect to any "market flex" provisions or modifications that are not Prohibited Amendments), including using its reasonable best efforts (in each case, to the extent within its Control) to (i) maintain in effect each Debt Commitment Letter through the consummation of the Closing, (ii) comply with its obligations under each Debt Commitment Letter, (iii) negotiate, execute, and deliver definitive agreements with respect to the Debt Financing on the terms (unless otherwise acceptable to Buyer) and conditions contained in the Debt Commitment Letters (giving effect to any "market flex" provision thereof) so that such definitive agreements are in effect no later than the Closing Date, (iv) satisfy, or cause to be satisfied, on a

timely basis all conditions and obligations applicable to Buyer in each Debt Commitment Letter and such definitive agreements, (v) enforce its rights under each Debt Commitment Letter and such definitive agreements, and (vi) consummate the Debt Financing at the Closing (which, for the avoidance of doubt, may include the exercise of “flex” rights as provided in and pursuant to the terms of the Debt Commitment Letters (and any fee letters related thereto) to the extent necessary, together with Other Sources, to fund the Required Financing Amount). If any material portion of the Debt Financing becomes unavailable on terms and conditions contemplated in the Debt Commitment Letters (after taking into account economic “flex” terms), Buyer shall use reasonable best efforts to obtain, as promptly as practicable following the occurrence of such event, alternative financing including from alternative sources, on Commercially Reasonable Terms for any such portion in an amount sufficient to replace any unavailable portion of the Debt Financing (“**Alternative Financing**”), *provided* that such amount of Alternative Financing shall not be required to be (when taken together with (A) any such portion of the Debt Financing that remains available and (B) Other Sources) in excess of the Required Financing Amount. “**Commercially Reasonable Terms**” means debt financing terms available in the market from major international or United States financing institutions to borrowers or issuers with credit ratings comparable to Buyer (determined after giving pro forma effect to the Transactions) for financing comparable to the type of financing contemplated by the Debt Commitment Letters at the time the Alternative Financing is sought, which shall not be less favorable in any material respect to Buyer with respect to enforceability or confidentiality. In the event any Alternative Financing or other debt financing is obtained in accordance with this Section 6.12(d), references in this Agreement to the Debt Financing shall also be deemed to refer to such Alternative Financing or other debt financing, and if one or more commitment letters is entered into or proposed to be entered into in connection with such Alternative Financing or other debt financing, references in this Agreement to the Debt Commitment Letters shall also be deemed to refer to such commitment letter(s) relating to such Alternative Financing or such other debt financing, and all obligations of Buyer, Seller Parent, and the Seller Parties pursuant to this Section 6.12 shall be applicable thereto to the same extent as Buyer’s, Seller Parent’s and such Seller Parties’ obligations with respect to the Debt Financing. Notwithstanding anything in this Agreement to the contrary, nothing herein shall require Buyer to (A) pay any fees in excess of those contemplated by the Debt Commitment Letters on the Agreement Date, or (B) agree to confidentiality or economic terms of the Debt Financing that are less favorable to Buyer in the aggregate than those contemplated by the Debt Commitment Letters or any related fee letter (including any economic “flex” provisions therein). For the avoidance of doubt, it is understood and agreed that nothing in this Agreement shall prejudice Buyer’s ability to elect to seek or obtain Alternative Financing or other debt financing that, in each case, is on Commercially Reasonable Terms, and Buyer’s seeking and obtaining any Alternative Financing or other such debt financing shall not be deemed to be a breach, violation or other contravention of this Agreement (including this Section 6.12).

(e) Buyer shall, (i) from time to time upon the request of Seller Parent during the Pre-Closing Period, keep Seller Parent informed on a reasonably current basis in reasonable detail of all material activity concerning the Debt Financing (including the status of its efforts to obtain the Debt Financing or any Alternative Financing) and (ii) promptly provide Seller Parent with copies of all executed amendments, modifications, or replacements of any Debt Commitment Letter (including with respect to any Alternative Financing) (it being understood that any amendments, modifications, or replacements shall only be as permitted herein). Without limiting the generality of the foregoing, Buyer shall promptly notify Seller Parent (A) of any material

breach or default (or any event or circumstance that would reasonably be expected to give rise to a material breach or default) by any party to the Debt Commitment Letters or definitive agreements related to the Debt Financing of which Buyer becomes aware, (B) of the receipt by Buyer of any written notice or communication from any Debt Financing Source with respect to any actual material breach or default, or any termination or repudiation, in each case by any party to the Debt Commitment Letters or any definitive agreements related to the Debt Financing of any provisions of the Debt Commitment Letters or such definitive agreements, and (C) if Buyer at any time becomes aware that any portion of the Debt Financing contemplated by the Debt Commitment Letter may not be available to pay the Required Financing Amount, to the extent such unavailability would reasonably be expected to prevent, or materially delay, impede or impair the Closing.

(f) For the avoidance of doubt, if the Debt Financing (including any Alternative Financing) has not been obtained on or prior to the Closing Date, Buyer shall continue to be obligated to consummate the Transactions on the terms contemplated by this Agreement and subject only to the satisfaction or waiver of the Closing Conditions set forth in Section 10.02 and to Buyer's rights under Article XI, regardless of whether Buyer has complied with all of its other obligations under this Agreement (including its obligations under this Section 6.12).

Section 6.13. R&W Insurance Policy.

(a) Buyer may acquire a conditional binder (the "**Binder Agreement**") to a buyer-side representation and warranty insurance policy (the "**R&W Insurance Policy**"), that would be issued at or promptly following the Closing in accordance with the terms and subject to the satisfaction of the conditions set forth in the Binder Agreement. Seller Parent shall, and shall cause the Seller Parties and its and their respective Subsidiaries to, provide such cooperation, assistance, information and documents as Buyer may reasonably request in connection with obtaining a R&W Insurance Policy.

(b) The cost, fees and expenses (including all premiums and any related underwriting or brokers fees) of obtaining any R&W Insurance Policy, including all premiums and any related brokers fees, shall be solely borne by Buyer.

(c) If obtained, Buyer shall cause such R&W Insurance Policy to expressly provide (i) the insurer(s) issuing such policy shall waive, and irrevocably agree not to pursue, directly or indirectly, any and all rights of subrogation, claims in contribution or assignment arising pursuant to this Agreement and the Transactions against the Seller Parties, their Affiliates and their respective officers, directors, managers and employees (collectively, the "**Seller Related Parties**"), except in the event of Fraud by such Seller Related Party (the "**Subrogation Waiver Provision**"), (ii) the Seller Related Parties shall be intended third party beneficiaries of the Subrogation Waiver Provision (the "**Third Party Beneficiary Provision**"). Buyer shall not, and shall not consent or agree to allow the issuer of such policy to, adversely amend, waive, modify or otherwise revise (i) the Subrogation Waiver Provision or the Third Party Beneficiary Provision included in the R&W Insurance Policy as required in the foregoing; or (ii) without the written consent of Seller Parent, any other terms or conditions of the R&W Insurance Policy in any manner that would adversely affect the Subrogation Waiver Provision or the Third Party Beneficiary Provision included in the R&W Insurance Policy as required in the foregoing.

ARTICLE VII

CERTAIN POST-CLOSING COVENANTS

Section 7.01. Post-Closing Access.

(a) From and after the Closing until the Wind-Up Date, in connection with (w) claims or obligations relating to Excluded Liabilities, (x) the determination of any matter relating to the rights or obligations of the Seller Parties or any of their Affiliates under any Transaction Agreement, (y) the administration, or satisfaction of Seller Parent's obligations in connection with, the Bankruptcy Cases, or (z) the winding up and cessation of the Seller Parties' corporate or limited liability company existence, upon reasonable prior written notice to Buyer, Buyer shall, and shall cause each its Affiliates and their respective Representatives to, at the sole cost and expense of the applicable Seller Party(ies): (i) afford each Seller Party and its Representatives and their respective Affiliates reasonable access, during normal business hours, to the properties, books and records of Buyer and its Affiliates in respect of the Business (including all original books and records in respect of the Business in the possession or control of Buyer or its Affiliates), the Transferred Assets, or the Assumed Liabilities and (ii) make available to each Seller Party and its Representatives and their respective Affiliates those Transferred Employees whose assistance, expertise, testimony, notes, or recollections or presence may be reasonably necessary to assist such Seller Party, its Representatives, or their respective Affiliates in connection with its inquiries for the purposes referred to in clauses (w)-(z) above, in each case, except as set forth in Section 7.01(b).

(b) Notwithstanding anything in this Agreement to the contrary:

(i) (A) in no event shall Buyer or its Affiliates be obligated to provide any (I) access or information in violation of any applicable Law (including Privacy Laws) or any Order of the Bankruptcy Court, (II) competitively sensitive information not related to the Transferred Assets, the Assumed Liabilities or the Business or any information the disclosure of which would reasonably be expected to (as determined in Buyer's reasonable judgement on advice of legal counsel) jeopardize any applicable legal privilege (including the attorney-client privilege) available to Buyer or any of its Affiliates relating to such information, (III) information in connection with a proceeding between Buyer or any of its Affiliates, on the one hand, and any Seller Party or any of its Affiliates, on the other hand or (IV) information the disclosure of which would cause Buyer or any of its Affiliates to breach a confidentiality obligation to which it is legally bound and in existence on the Agreement Date *provided, however*, in the case of clauses (I), (II), (III) and (IV), Buyer and its Affiliates shall be required to use commercially reasonable efforts to provide such information; *provided, further*, in the case of clauses (I), (II) or (IV), Buyer shall provide the applicable Seller Party a reasonably detailed description of the information not provided pursuant to the forgoing, and the applicable Seller Party and Buyer shall cooperate in good faith to design and implement alternative disclosure arrangements to enable such Seller Party and its Representatives to evaluate such information without such violation, forfeiture or breach, and (B) any access or investigation contemplated by Section 7.01(a) shall not unreasonably interfere with any of the businesses, personnel, or operations of Buyer or any of its Affiliates, or the Business;

(ii) the auditors and accountants of Buyer or its Affiliates or the Business shall not be obligated to make any work papers available to any Person except in accordance with such auditors' and accountants' normal disclosure procedures and then only after such Person has signed a customary agreement relating to such access to work papers in form and substance reasonably acceptable to such auditors or accountants; and

(iii) for the avoidance of doubt, the applicable Seller Party shall (or cause its Representatives or Subsidiaries to) reimburse the Buyer and its Affiliates for reasonable expenses associated with the availability and/or assistance of Transferred Employees in the foregoing Section 7.01(a)(ii).

(c) Notwithstanding anything to the contrary herein, for the longer of (I) any applicable statute of limitations and (II) the period ending on the Wind-Up Date, the Seller Parties shall have continued access to all Transferred Books and Records as is necessary to administer the Bankruptcy Cases and the Seller Parties may retain copies of such Transferred Books and Records, solely as necessary or appropriate in connection with such purpose. Upon the Wind-Up Date, the Seller Parties shall destroy all copies of the Transferred Books and Records in such Seller Parties' possession and shall confirm destruction by providing Buyer with prompt written notice (email being sufficient).

(d) From and after the Closing Date until the Wind-Up Date, in connection with (w) claims or obligations relating to Assumed Liabilities, (x) the determination of any matter relating to the rights or obligations of Buyer or any of its Affiliates under any Transaction Agreement, (y) the administration, or satisfaction of any Buyer obligations in connection with, the Bankruptcy Cases, or (z) the winding up and cessation of the Seller Parties' corporate or limited liability company existence, in each case, upon reasonable prior written notice to Seller Parent, Seller Parent shall, and shall cause each its Subsidiaries and their respective Representatives to, at the sole cost and expense of Buyer, afford Buyer and its Representatives and their respective Affiliates reasonable access, during normal business hours, to the properties, books and records of Seller Parent and its Affiliates in respect of the Excluded Business (including all original books and records in respect of the Excluded Business in the possession or control of Seller Parent or its Affiliates), the Excluded Assets, or the Excluded Liabilities;

(e) Notwithstanding anything in this Agreement to the contrary:

(i) (A) in no event shall Seller Parent or its Affiliates be obligated to provide any (I) access or information in violation of any applicable Law (including Privacy Laws) or any Order of the Bankruptcy Court, (II) competitively sensitive information not related to the Excluded Assets, the Excluded Liabilities or the Excluded Business or any information the disclosure of which would reasonably be expected to (as determined in Seller Parent's reasonable judgement on advice of legal counsel) jeopardize any applicable legal privilege (including the attorney-client privilege) available to Seller Parent or any of its Affiliates relating to such information, (III) information in connection with a proceeding between Seller Parent or any of its Affiliates, on the one hand, and any Buyer or any of its Affiliates, on the other hand or (IV) information the disclosure of which would cause Seller Parent or any of its Affiliates to breach a confidentiality obligation to which it is legally bound and in existence on the Agreement Date *provided, however*, in the case of clauses (I), (II), (III) and (IV), Seller Parent and its Affiliates

shall be required to use commercially reasonable efforts to provide such information; *provided, further*, in the case of clauses (I), (II) or (IV), Seller Parent or the applicable Seller Party shall provide Buyer a reasonably detailed description of the information not provided pursuant to the forgoing, and the applicable Seller Party and Buyer shall cooperate in good faith to design and implement alternative disclosure arrangements to enable Buyer and its Representatives to evaluate such information without such violation, forfeiture or breach, and (B) any access or investigation contemplated by this Section 7.01(e) shall not unreasonably interfere with any of the businesses, personnel, or operations of Seller Parent or any of its Affiliates, or the Excluded Business; and

(ii) the auditors and accountants of Seller Parent or its Affiliates or the Excluded Business shall not be obligated to make any work papers available to any Person except in accordance with such auditors' and accountants' normal disclosure procedures and then only after such Person has signed a customary agreement relating to such access to work papers in form and substance reasonably acceptable to such auditors or accountants.

Section 7.02. Intellectual Property Matters.

(a) Effective as of the Closing, Buyer hereby grants to Seller Parent and each of its Affiliates a royalty-free, fully paid-up, irrevocable (during the term of the license granted under this Section 7.02(a)), non-sublicensable, non-transferable, non-exclusive license, until the Wind-Up Date, to continue to use and display any Trademarks included in the Business Intellectual Property included in the Transferred Assets in substantially the same manner that such Trademarks are used in connection with the Business or PA Business immediately prior to the Closing (and solely with products, services, and operations of substantially the same or higher quality as those of the Business or PA Business prior to the Closing) solely in connection with the winding up and cessation of Seller Parent's or such Affiliate's use and display of such Trademarks, including to sell or otherwise dispose of any Excluded Assets bearing or containing any such Trademarks and in connection with the winding up of the PA Business. Following such period, none of Seller Parent or any such Affiliates shall use or display any such Trademarks in any manner for any purpose, except that nothing in this Section 7.02 shall prohibit Seller Parent or any such Affiliate from using any such Trademarks as permitted under any other Transaction Agreement, in a text-only form in connection with historical, Tax, employment, or similar references to the Business or PA Business, for purposes of prospectus, and similar disclosures as are necessary and appropriate to describe the historical relationship of Seller Parent and such Affiliate, or as otherwise required to comply with applicable Law (including any Order of the Bankruptcy Court). Any and all goodwill generated by the use of such Trademarks, including under this Section 7.02, shall inure solely to the benefit of the respective owner of the applicable Trademark.

(b) Solely to the extent that any Business Intellectual Property (other than Trademarks) included in the Transferred Assets is used, practiced, or otherwise exploited by Seller Parent or any of its Affiliates in the conduct of the PA Business immediately prior to the Closing and is necessary for the winding up of the PA Business after the Closing, effective as of the Closing, Buyer hereby grants Seller Parent and each such Affiliate a royalty-free, fully paid-up, irrevocable (during the term of the license granted under this Section 7.02(b)), worldwide, non-sublicensable (except to subcontractors and consistent with past practice), non-transferable (except in connection with the transfer of all or substantially all of the assets, stock, or other equity of Seller Parent or such Affiliate), non-exclusive license to use, practice, and otherwise exploit such

Business Intellectual Property solely in connection with the conduct of the PA Business of Seller Parent or such Affiliate as conducted on or prior to the Closing (and natural evolutions thereof in the context of winding up the PA Business) and the winding up of the PA Business, which license shall terminate immediately upon cessation of the PA Business by Seller Parent and its Affiliates.

Section 7.03. Further Assurances; Receipt of Misdirected Assets.

(a) From time to time following the Closing until the Wind-Up Date, the Parties shall, and shall cause their respective Affiliates to, execute, acknowledge and deliver all reasonable further conveyances, notices, assumptions, releases, and acquittances and such instruments, and shall take such reasonable actions as may be necessary or appropriate to make effective the Transactions as may be reasonably requested by the other Party.

(b) In furtherance of Section 7.03(a), following the Closing until the Wind-Up Date, if Buyer or any of its Affiliates (a) receives or otherwise possesses any asset or interest (including any funds, payments, mail (including electronic mail) and insurance proceeds) that should have properly been classified as an Excluded Asset, or (b) is liable under or otherwise responsible for discharging a Liability that should have properly been classified as an Excluded Liability, (i) (A) Buyer shall, and shall cause its respective Subsidiaries to use reasonable best efforts to reasonably promptly transfer, or cause to be transferred, such asset or interest to Seller Parent or a Seller Party designated by Seller Parent and (B) Buyer, shall hold such asset or interest in trust for the use and benefit and burden of the Person entitled thereto (and at such other Person's sole expense) until the consummation of the transfer thereof, or (ii) a Seller Party designated by Seller Parent shall promptly assume such Liabilities from Buyer, as the case may be.

(c) In furtherance of Section 7.03(a), following the Closing until the Wind-Up Date, if Seller Parent or any of the Seller Parties (a) receives or otherwise possesses any asset or interest (including any funds, payments, mail (including electronic mail) and insurance proceeds) that should have properly been classified as a Transferred Asset or (b) is liable under or otherwise responsible for discharging a Liability that should have properly been classified as an Assumed Liability, (i) (A) Seller Parent shall, and shall cause the other Seller Parties and their respective subsidiaries to use reasonable best efforts to reasonably promptly transfer, or cause to be transferred, such asset or interest to Buyer and (B) Seller Parent and the applicable Seller Party shall hold such asset or interest in trust for the use and benefit and burden of the Person entitled thereto (and at such other Person's sole expense) until the consummation of the transfer thereof, or (ii) Buyer shall promptly assume such Liabilities from Seller Parent, as applicable, as the case may be.

(d) Except for Buyer's obligations to discharge an Assumed Liability and Seller Parties' obligations to discharge Excluded Liabilities (including as provided in the foregoing of this Section 7.03) or as otherwise provided pursuant to Section 6.12, nothing in this Section 7.03 shall require any Party or its Affiliates to pay money to, commence or participate in any Action with respect to, or offer or grant any accommodation (financial or otherwise) to, any third party following the Closing.

Section 7.04. Preservation of Books and Records. Seller Parent and its Affiliates shall have the right to retain copies of all books and records of the Business relating to periods ending

on or before the Closing Date. From and after the Closing until the Wind-Up Date, Buyer agrees that it shall preserve and keep all pre-Closing books and records in respect of the Business in the possession or control of Buyer or its Affiliates that are not in the possession or control of any Seller Party as of the Closing Date. After such period, before Buyer or any Affiliate may dispose of any of such books and records, and Buyer shall give reasonable prior written notice to Seller Parent of its such intention to dispose such books and records, and Seller Parent, and/or any of its respective Affiliates shall be given an opportunity, at their cost and expense, to retain all or any part of such books and records as it or they may elect.

Section 7.05. Certain Transitional Matters. From and after the Closing until the Wind-Up Date, the applicable Seller Parties shall deliver to Buyer, and to the extent permitted by applicable Law or an Order of the Bankruptcy Court, promptly after the receipt thereof and in the form received, all inquiries, correspondence and other items and materials received by the Seller Parties and its Affiliates from any third party Person that would reasonably be expected to be material to the Business. From and after the Closing until the Wind-Up Date, Buyer shall deliver to Seller Parent on a similar basis as the foregoing provisions of this Section 7.05, all material inquiries, correspondence and other items and materials received by Buyer and its Affiliates from any Person related to the Excluded Assets or Excluded Liabilities.

Section 7.06. Insurance. Buyer acknowledges that coverage for the Business and the Transferred Assets under the insurance policies of Seller Parent and its Affiliates will cease as of the Closing, and that neither Seller Parent nor any of its Affiliates will purchase any “tail” policy or other additional or substitute coverage for the benefit of Buyer or any of its Affiliates relating to such insurances, the Business or the Transferred Assets applicable to any period after the Closing; *provided, however*, from and after Closing until the Wind-Up Date, Seller Parent shall provide Buyer with reasonable access (upon advance written notice) to, and will use reasonable best efforts to reasonably cooperate with Buyer in Buyer’s pursuit of recovery under, any occurrence-based Insurance Policy of Seller Parent and its Affiliates applicable to the Transferred Assets solely in respect of pre-Closing events related to the Transferred Assets for which a claim could reasonably be made (the “**Insurance Policy Claims**”), *provided* that Buyer shall be responsible for, and shall indemnify and hold Seller Parent and its Affiliates harmless against, any reasonable, documented and out-of-pocket expenses of Seller Parent solely arising out of Buyer’s pursuit of any Insurance Policy Claim, *provided further* that Buyer and its Affiliates shall be responsible for any deductible or retention applicable to any Insurance Policy Claim. In no event shall Seller Parent or its Affiliates be required to (i) renew any insurance policy following the Closing or (ii) take any action to maintain in effect any insurance policies following Closing including with respect to paying any premium or other amount in respect of any such insurance policy. Nothing herein shall be construed as limiting the right of Seller Parent or its Affiliates to pursue coverage for its or their own benefit under any insurance policy and to recover coverage up to the applicable limit of liability, or as prioritizing Insurance Policy Claims benefitting Buyer or any of its Affiliates above claims benefitting Seller Parent or its Affiliates.

Section 7.07. Mutual Release.

(a) Each Seller Party, for itself and on behalf of its Affiliates, and any of its respective officers, directors, employees, managers, partners, members, equityholders, agents, representatives, successors and permitted assigns (each a “**Seller Releasing Party**”), each

acknowledges and agrees that, effective from and after the Closing, to the fullest extent permitted under applicable Law, any and all rights, claims and causes of action, it may ever had, now has or may have on or by reason of any matter, cause or fact whatsoever from the beginning of time through the Closing, against any of Buyer, the Business or any of its respective current or future Affiliates, or any of its respective former, current or future officers, directors, employees, managers, partners, members, equityholders, agents, representatives, successors and permitted assigns (the “**Buyer Released Parties**”) relating to (i) the preparation, negotiation, execution or consummation of this Agreement and the Transaction Agreements or the Transactions, (ii) claims in respect of a breach by any member of Buyer’s board of directors, board of managers (or equivalent governing body) or its individual directors, managers, officers and employees of their obligations or duties (including fiduciary duties) (including in connection with the negotiation and execution of this Agreement and the consummation of the Transactions), (iii) the Business, the operation of the Business at or prior to the Closing or (iv) Seller Parties’ status as a holder of equity securities in the an entities comprising the Business prior to the Closing or owner of the Business or Transferred Assets otherwise (collectively, “**Seller Claims**”) are effective as of the Closing, hereby irrevocably released, forever discharged and waived by and on behalf of the Seller Releasing Parties; *provided, however*, that nothing in this Section 7.07 shall be construed to release, acquit or discharge any Seller Claims or rights that any of the Seller Releasing Parties had, have or may have (A) against any Seller Party, any rights of indemnification, exculpation, or expense reimbursement of any individual who served as a director, officer, manager, or other representative of any Seller Party under the operating agreement, charter, bylaws, partnership agreement, or other organization documents of such Seller Party; (B) any rights of any Person under any directors’ and officers’ or similar insurance policy pursuant to which they are a covered person (and subject in all respects to the terms and conditions thereof); (C) as an employee of the Business for accrued and unpaid wages or other compensation for services rendered prior to the Closing; (D) any rights of Seller Parties set forth in this Agreement or any Transaction Agreement or the Transactions, including Section 7.03; or (v) each Seller Releasing Party’s rights and interests under any written agreement between such Seller Releasing Party, on the one hand, and any Buyer Released Party, on the other hand.

(b) Each Seller Party agrees not to, and agree to cause each of its Seller Releasing Parties not to, assert any Seller Claim against the Buyer Released Parties, and with respect to such Seller Claims, each Seller Releasing Party effective as of the Closing hereby expressly waives any and all rights conferred upon such Person by any statute or rule of law which provides that a release does not extend to claims which the claimant does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him, her or it must have materially affected his, her or its settlement with the Buyer Released Party. Seller Parties each hereby represents and warrants that it has access to adequate information regarding the terms of this release, the scope and effect of the releases set forth herein, and all other matters encompassed by this release to make an informed and knowledgeable decision with regard to entering into this release and has not relied on the Buyer Released Parties in deciding to enter into this release and has instead made his, her or its own independent analysis and decision to enter into this release.

(c) Buyer, for itself and on behalf of its Affiliates, and any of its respective officers, directors, employees, managers, partners, members, equityholders, agents, representatives, successors and permitted assigns (each a “**Buyer Releasing Party**”),

acknowledges and agrees that, effective from and after the Closing, to the fullest extent permitted under applicable Law, any and all rights, claims and causes of action, it may ever had, now has or may have on or by reason of any matter, cause or fact whatsoever from the beginning of time through the Closing, against any of the Seller Parties, the Business or any of their respective current or future Affiliates, or any of their respective former, current or future officers, directors, employees, managers, partners, members, equityholders, agents, representatives, successors and permitted assigns (the “**Seller Released Parties**”, and together with Buyer Released Parties, the “**Released Parties**”) relating to (i) the preparation, negotiation, execution or consummation of this Agreement and the Transaction Agreements or the Transactions, (ii) claims in respect of a breach by any member of any Seller Party’s board of directors, board of managers (or equivalent governing body) or its individual directors, managers, officers and employees of their obligations or duties (including fiduciary duties) (including in connection with the negotiation and execution of this Agreement and the consummation of the Transactions), or (iii) the Business, the operation of the Business at or prior to the Closing (collectively, “**Buyer Claims**”) are effective as of the Closing, hereby irrevocably released, forever discharged and waived by and on behalf of the Buyer Releasing Parties; *provided, however*, that nothing in this Section 7.07 shall be construed to release, acquit or discharge any Buyer Claims or rights that any of the Buyer Releasing Parties had, have or may have (A) set forth in this Agreement or any Transaction Agreement or the Transactions, including Section 7.03; or (B) any Buyer Releasing Party’s rights and interests under any written agreement between such Buyer Releasing Party, on the one hand, and any Seller Released Party, on the other hand.

(d) Buyer agrees not to, and agrees to cause each Buyer Releasing Party not to, assert any Buyer Claim against the Seller Released Parties, and with respect to such Buyer Claims, each Buyer Releasing Party effective as of the Closing hereby expressly waives any and all rights conferred upon such Person by any statute or rule of law which provides that a release does not extend to claims which the claimant does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him, her or it must have materially affected his, her or its settlement with the Seller Released Party. Buyer hereby represents and warrants that it has access to adequate information regarding the terms of this release, the scope and effect of the releases set forth herein, and all other matters encompassed by this release to make an informed and knowledgeable decision with regard to entering into this release and has not relied on the Seller Released Parties in deciding to enter into this release and has instead made his, her or its own independent analysis and decision to enter into this release.

(e) Each of the Released Parties is an express beneficiary of this Section 7.07.

Section 7.08. No Successor Liability. The Parties intend that, to the fullest extent permitted by applicable Law (including under Section 363 of the Bankruptcy Code), upon the Closing, Buyer shall not be deemed to: (a) be the successor of any Seller Party, (b) have, *de facto*, or otherwise, merged with or into Seller Parties; (c) be a mere continuation or substantial continuation of Seller Parties or the enterprise(s) of Seller Parties; or (d) be liable or have any Liability for any acts or omissions of Seller Parties in the conduct of their businesses or arising under or related to the Transferred Assets other than as expressly set forth and agreed in this Agreement. Without limiting the generality of the foregoing, and except as otherwise expressly provided in this Agreement, the Parties intend that Buyer shall have no Liability for any Lien (other than the Assumed Liabilities and Permitted Liens on the Transferred Assets), and Buyer shall have

no successor or vicarious liability of any kind or character whether known or unknown as of the Closing Date or in connection with the Transactions, whether now existing or hereafter arising, or whether fixed or contingent, with respect to the businesses of Seller Parties, the Transferred Assets or any Liability of Seller Parties arising prior to, or relating to any period occurring prior to, the Closing Date. The Parties agree that the Sale Order shall contain provisions substantially in the form set forth in this Section 7.08.

ARTICLE VIII

BANKRUPTCY PROVISIONS

Section 8.01. Approval of Break-Up Fee and Expense Reimbursement. In consideration for Buyer having expended considerable time and expense in connection with this Agreement and the negotiation thereof and the identification and quantification of assets of Seller Parties, Seller Parent shall if, as, and when due in accordance with the terms hereof and the Bidding Procedures Order, (a) if, and only if, this Agreement is validly terminated pursuant to Section 11.01(c), Section 11.01(f) or Section 11.01(k), pay (or cause to be paid) to Buyer a break-up fee in an amount equal to (i) \$8,550,000 (the “**Break-Up Fee**”) plus (as applicable) (ii) the amount of the reasonable, out-of-pocket and documented expenses of Buyer incurred in connection with this Agreement and the Transactions up to an aggregate amount of \$2,850,000 (such amount an “**Expense Reimbursement**”, and together with the Break-Up Fee (as applicable), the “**Termination Payment**”); or (b) if, and only if, this Agreement is validly terminated pursuant to Section 11.01(g), Section 11.01(h) or Section 11.01(i), pay (or cause to be paid) the Expense Reimbursement. In either event, subject to the entry of the Bidding Procedures Order, the Termination Payment or the Expense Reimbursement, as applicable, shall be paid no later than the third (3rd) Business Day following the date of consummation of an Alternative Transaction if, at or prior to such date, no material breach by Buyer of this Agreement has occurred pursuant to which Seller Parent would be entitled to terminate this Agreement pursuant to Section 11.01(b). In accordance with Section 8.03, Seller Parent shall file with and seek the entry by the Bankruptcy Court of the Bidding Procedures Order, approving the payment of the Termination Payment, pursuant to, and subject to the limitations set forth in, this Agreement. The agreements contained in this Section 8.01 are an integral part of this Agreement. The Expense Reimbursement and the Break-Up Fee are not a penalty, but rather represent liquidated damages in a reasonable amount that will reasonably compensate Buyer in the circumstances in which such Expense Reimbursement or Break-Up Fee, as applicable, is payable for the efforts and resources expended and opportunities foregone by Buyer while negotiating and pursuing this Agreement and in reasonable reliance on this Agreement, which amount would otherwise be impossible to calculate with precision. Pursuant to the Bidding Procedures Order and subject to approval by the Bankruptcy Court and entry of the Bidding Procedures Order, the claim of Buyer in respect of the Expense Reimbursement or the Break-Up Fee is and constitutes an allowed administrative expense claim against Seller Parties under Sections 503 and 507(b) of the Bankruptcy Code in the Bankruptcy Case.

Section 8.02. Competing Transaction. This Agreement is subject to approval by the Bankruptcy Court and the consideration by Seller Parent of higher or better competing bids in respect of all or any part of the Transferred Assets (each, a “**Competing Bid**”), as determined in each Seller Party’s sole and exclusive discretion. From the Agreement Date and until the

Transactions are consummated, each Seller Party is permitted to and to cause its Representatives and Affiliates to, initiate contact with, solicit, or encourage submission of any inquiries, proposals, or offers by, any Person (in addition to Buyer and its Affiliates and Representatives) in connection with a Competing Bid. In addition, each Seller Party shall have the responsibility and obligation to respond to any inquiries or offers for a Competing Bid and perform any and all other acts related thereto which are required under the Bankruptcy Code, the Bidding Procedures Order or other applicable Law, including supplying information relating to the Business and the Transferred Assets, to prospective purchasers.

Section 8.03. Bankruptcy Court Filings.

(a) As promptly as practicable following the commencement of the Bankruptcy Cases, the Seller Parties shall file with the Bankruptcy Court the Bidding Procedures Motion seeking entry of the Bidding Procedures Order. From the Agreement Date until the earlier of (i) the valid termination of this Agreement in accordance with Section 11.01 and (ii) the Closing Date, the Seller Parties shall use reasonable best efforts to pursue the entry of (i) the Bidding Procedures Order and (ii) the Sale Order, in each case, by the Bankruptcy Court.

(b) The Sale Order shall, among other things, (a) approve, pursuant to Sections 105, 363, and 365 of the Bankruptcy Code, (i) the execution, delivery and performance by the Seller Parties of this Agreement, (ii) the sale of the Transferred Assets to Buyer on the terms set forth herein and free and clear of all Liens (other than Liens included in the Assumed Liabilities and Permitted Liens), and (iii) the performance by the Seller Parties of their respective obligations under this Agreement; (b) authorize and empower the Seller Parties to assume and assign to Buyer the Transferred Executory Contracts; (c) find that Buyer is a “good faith” buyer within the meaning of Section 363(m) of the Bankruptcy Code, find that Buyer is not a successor to any Seller Party, and grant Buyer the protections of Section 363(m) of the Bankruptcy Code; (d) find that Buyer shall have no Liability or responsibility for any Liability or other obligation of any Seller Party arising under or related to the Transferred Assets other than as expressly set forth in this Agreement, including successor or vicarious Liabilities of any kind or character, including any theory of antitrust, environmental, successor, or transferee Liability, labor law, de facto merger, or substantial continuity; (e) find that Buyer has provided adequate assurance (as that term is used in Section 365 of the Bankruptcy Code) of future performance in connection with the assumption of the Transferred Executory Contracts; and (f) find that Buyer shall have no Liability for any Excluded Liability.

(c) The Seller Parties acknowledge and agree, and the Sale Order shall provide that, on the Closing Date and concurrently with the Closing, all then existing or thereafter arising obligations, Liabilities and Liens of, against or created by Seller Parties or their bankruptcy estate, to the fullest extent permitted by Section 363 of the Bankruptcy Code, shall be fully released from and with respect to the Transferred Assets. On the Closing Date, the Transferred Assets shall be transferred to Buyer free and clear of all obligations, Liabilities and Liens, other than Permitted Liens and the Assumed Liabilities to the fullest extent permitted by Section 363 of the Bankruptcy Code.

(d) The Seller Parties shall promptly seek entry of the Bidding Procedures Order and the Sale Order, both of which shall be in form and substance reasonably acceptable to

the Buyer, by the Bankruptcy Court. Buyer agrees that it will promptly take such actions as are reasonably requested by Seller Parent to assist in obtaining entry of the Bidding Procedures Order and the Sale Order, and providing adequate assurance of future performance by Buyer as required under Section 365 of the Bankruptcy Code, including furnishing affidavits or other documents or information for filing with the Bankruptcy Court for the purposes, among others, of providing necessary assurances of performance by Buyer under this Agreement and demonstrating that Buyer is a “good faith” purchaser under Section 363(m) of the Bankruptcy Code. Buyer shall not, without the prior written consent of Seller Parent, file, join in, or otherwise support in any manner whatsoever any motion or other pleading relating to the sale of the Transferred Assets hereunder. In the event the entry of the Sale Order or the Bidding Procedures Order shall be appealed, the Seller Parties and Buyer shall use their respective commercially reasonable efforts to defend such appeal.

(e) Seller Parent may modify the Bidding Procedures Order or the Sale Order pursuant to discussions with the Office of the United States Trustee assigned to the Bankruptcy Cases, the Bankruptcy Court, any creditor, or committee representing a group of creditors in the Bankruptcy Cases, or any other party in interest; *provided* that all such modifications to the Bidding Procedures Order or the Sale Order shall be approved by Buyer in writing.

(f) Each of the Seller Parties and Buyer shall appear formally or informally in the Bankruptcy Court if reasonably requested by the other Party or required by the Bankruptcy Court in connection with the Transactions and keep the other reasonably apprised of the status of material matters related to this Agreement, including, upon reasonable request promptly furnishing the other with copies of notices or other communications received by any Seller Party from the Bankruptcy Court or any third party and/or any Government Authority with respect to the Transactions.

Section 8.04. Back-up Bidder. Seller Parent and Buyer agree that, in the event that Buyer is not the winning bidder at the auction undertaken pursuant to the Bidding Procedures Order (the “**Auction**”), if and only if (a) Buyer submits the second highest or second best bid at the Auction and is named the “Back-Up Bidder” at the Auction, in each case, as determined by the Seller Parties, and (b) Seller Parent gives notice to Buyer on or before the Back-up Termination Date, stating that the Seller Parties (i) failed to consummate the sale with the winning bidder, and (ii) has terminated the purchase agreement with the winning bidder, Buyer shall promptly consummate the Transaction upon the terms and conditions as set forth herein, including the Aggregate Purchase Price, as the same may be increased by Buyer at the Auction.

Section 8.05. Bankruptcy Milestones. Seller Parent shall satisfy the following milestones (each of which is subject to the availability of the Bankruptcy Court) and any extension of such milestones shall require the prior consent of Buyer (which consent shall not to be unreasonably withheld, conditioned or delayed; it being understood that it shall not be unreasonable for Buyer to withhold, condition or delay such consent in the event that Seller Parties have not used their respective reasonable best efforts to avoid any such extension):

(a) The Petition Date shall have occurred on or before May 28, 2025.

(b) The Bankruptcy Court shall have entered the Bidding Procedures Order no later than the day that is thirty (30) days following the Petition Date.

(c) The Bid Deadline under the Bidding Procedures Order shall be no later than the day that is fifty (50) days following the Petition Date.

(d) The Auction, if any, under the Bidding Procedures Order shall be no later than the day that is fifty-five (55) days following the Petition Date.

(e) The Bankruptcy Court shall have entered the Sale Order no later than the day that is sixty-five (65) days following the Petition Date.

ARTICLE IX

TAX MATTERS

Section 9.01. Transfer Taxes. Notwithstanding anything to the contrary in this Agreement, Buyer, on the one hand and Seller Parties, on the other hand, shall promptly pay and discharge 50% of any Transfer Tax imposed or arising with respect to the Transactions. The Party required by Law to file a Tax Return with respect to such Transfer Taxes shall, with the cooperation of the other Party, timely prepare and file such Tax Return; *provided*, that Buyer shall bear and be responsible for the costs of preparing and filing such Tax Return. If the Seller Parties or any of their Affiliates are required to pay any Transfer Tax, Buyer shall within ten (10) Business Days of receipt of evidence of payment reimburse the Seller Parties for any Transfer Taxes paid by the Seller Parties or such Affiliate in connection with the filing of the applicable Tax Return. Buyer and Seller Parent each agree to use commercially reasonable efforts to timely sign and deliver (or to cause their respective Affiliates to timely sign and deliver) such certificates or forms as may be necessary or appropriate and otherwise to cooperate to establish any available exemption from (or otherwise reduce) any Transfer Taxes.

Section 9.02. Tax Allocations. Except as set forth in this Section 9.02, the Seller Parties shall be allocated and bear all Taxes attributable to the Transferred Assets for any Tax period (or portion of any "Straddle Period") ending on or before the Closing Date, and Buyer shall be allocated and bear all Taxes attributable to the Transferred Assets for any Tax period (or portion of any Straddle Period) that begins after the end of the Closing Date. For purposes of the calculation of any Taxes that need to be apportioned between a taxable period beginning on or before and ending after the Closing Date, (a) property, ad valorem and similar Taxes will be apportioned and prorated between the Seller Parties and Buyer as of the Closing Date, based on such Party's proportionate share of such Taxes, which shall, in the case of the Seller Parties, be equal to the product obtained by multiplying (i) the amount of such Taxes for the Straddle Period and (ii) a fraction, the numerator being the number of days up to and including the Closing Date and the denominator being the total number of days in the Straddle Period, and Buyer shall bear the remaining portion of such Taxes and (b) Taxes based on or measured by income, receipts, payments, or payroll will be apportioned and prorated between the Seller Parties and Buyer based on an interim closing of the books as of the end of the day of the Closing Date. If the precise amount of any such Tax cannot be ascertained on the Closing Date, apportionment and proration shall be computed utilizing the most recent information available in estimating the amount of such

Tax for purposes of such adjustment and any proration shall be adjusted thereafter on the basis of the actual charges for such items in the Straddle Period. Upon the payment of any Taxes attributable to the Transferred Assets (other than income or similar taxes imposed on any Seller Party or Buyer or their respective Affiliates) for any Tax period beginning prior to the end of the Closing Date, Buyer or Seller Parent, as applicable, shall (or shall cause the applicable Affiliate thereof to), within thirty (30) days after notice of payment being due and delivery of reasonable supporting documentation with respect to such amounts, make any additional payment so that the correct prorated amount is paid by each of Buyer and the Seller Parties.

Section 9.03. Tax Cooperation. Without limiting the obligations set forth in Sections 12.17 and 7.01, the Parties shall furnish or cause to be furnished to each other, upon request, and at the sole cost of the requesting Party, as promptly as practicable, such information and assistance relating to the Transferred Assets as is reasonably necessary for the filing of Tax Returns, the making of any election related to Taxes, and the preparation for, or the prosecution or defense of, any audit, claim, demand, proposed adjustment or deficiency relating to Taxes, in each case, with respect to the Business or Transferred Assets. Such cooperation shall include the retention and (upon the other Party's request) the provision of records and information which are reasonably relevant to any such Tax Return or audit, litigation or other proceeding and making employees reasonably available on a mutually convenient basis to provide additional information and explanation of any material provided hereunder.

Section 9.04. Post-Closing Actions. Except with Seller Parent's consent, (such consent not to be unreasonably withheld, conditioned or delayed) or as required by applicable Law, neither Buyer nor any Affiliate of Buyer shall with respect to any taxable year or period (or portion thereof) commencing on or before the Closing Date (or with respect to any Straddle Period) in each case, related to the Transferred Assets or Assumed Liabilities (a) change any election, amend, refile, or otherwise modify any Tax Return, (b) voluntarily approach a Government Authority regarding any Taxes or Tax Returns, enter into any closing agreement, settle any Tax claim or assessment, or surrender any right to claim a refund of Taxes or (c) extend or waive any statute of limitations or other period for the assessment or collection of Taxes.

Section 9.05. Survival. The obligations set forth in (i) Sections 9.01, 9.02, and 9.04, with respect to Taxes shall survive until the Wind-Up Date and (ii) Section 9.03 and Section 9.06 shall survive until the date that is sixty (60) days following the expiration of the applicable statute of limitations.

Section 9.06. Adjustment to Aggregate Purchase Price. The Parties agree to treat any payment made pursuant to this Agreement as an adjustment to the Aggregate Purchase Price for all income Tax purposes, unless otherwise required by applicable Law.

ARTICLE X

CONDITIONS TO CLOSING

Section 10.01. Conditions to Obligations of Seller Parent. The obligation of Seller Parent or any other Seller Party to consummate the Transactions shall be subject to the satisfaction or

written waiver by Seller Parent in its sole discretion, at or before the Closing, of each of the following conditions:

(a) Representations and Warranties; Covenants.

(i) all representations and warranties of Buyer contained in Article V shall be true and correct in all respects as of the Closing as if made on the Closing Date (other than representations and warranties that are made as of a specific date, which representations and warranties shall have been true and correct in all respects as of such date), except for breaches or inaccuracies that, individually or in the aggregate, would not reasonably be expected to have a material adverse effect on Buyer's ability to consummate the Transactions or otherwise timely perform its obligations under the Transaction Agreements; *provided, however*, that for purposes of determining the satisfaction of the condition in this clause (i), no effect shall be given to any qualifier of "material" in such representations and warranties;

(ii) the covenants contained in this Agreement required to be performed or complied with by Buyer at or before the Closing shall have been performed or complied with in all material respects; and

(iii) Seller Parent shall have received a certificate signed by an authorized officer of Buyer, dated as of the Closing Date, certifying as to the satisfaction of the matters set forth in the foregoing clauses (i) and (ii).

(b) Governmental Approvals. All applicable waiting periods under the HSR Act shall have expired or been terminated and all Government Approvals set forth on Schedule 6.04(a) shall have been made or obtained, or if applicable, shall have expired, have been waived by the applicable Government Authority (or other applicable Person), or have been terminated.

(c) No Law. There shall be no Law or Order enacted or in effect that prohibits or makes illegal the sale of the Transferred Assets or the other Transactions.

(d) Buyer Closing Deliverables. Buyer shall have executed and delivered to Seller Parent all of the items set forth in Section 3.03(b).

(e) Bankruptcy Court. The Bankruptcy Court shall have entered the Sale Order and no Order staying, amending, modifying, or reversing the Sale Order shall be in effect.

Section 10.02. Conditions to Obligations of Buyer. The obligations of Buyer to consummate the Transactions shall be subject to the satisfaction or written waiver by Buyer in its sole discretion, at or before the Closing, of each of the following conditions:

(a) Representations and Warranties; Covenants.

(i) (A) all representations and warranties of Seller Parent contained in Article IV (other than the Seller Parent Fundamental Representations) shall be true and correct as of the Closing as if made on the Closing Date (other than representations and warranties that are made as of a specific date, which representations and warranties shall have been true and correct as of such date), except for breaches or inaccuracies, as the case may be, as to matters that,

individually or in the aggregate, would not reasonably be expected to have a Material Adverse Effect; *provided, however*, that for purposes of determining the satisfaction of the condition in this clause (A), no effect shall be given to any qualifier of “material” or “Material Adverse Effect” in such representations and warranties (other than the word “Material” when used in the instances of the defined term “Material Contract”) and (B) the Seller Parent Fundamental Representations shall be true and correct in all respects, other than for *de minimis* inaccuracies, in each case, as of the Closing as if made on the Closing Date (other than representations and warranties that are made as of a specific date, which representations and warranties shall have been true and correct as of such date);

(ii) the covenants contained in this Agreement required to be performed or complied with by Seller Parent at or before the Closing shall have been performed or complied with in all material respects; and

(iii) Buyer shall have received a certificate signed by an authorized officer of Seller Parent, dated as of the Closing Date, certifying as to the satisfaction of matters set forth in the foregoing clauses (i) and (ii).

(b) Governmental Approvals. All applicable waiting periods under the HSR Act shall have expired or been terminated and all Government Approvals set forth on Schedule 6.04(a) shall have been made or obtained, or if applicable, shall have expired, have been waived by the applicable Government Authority (or other applicable Person), or have been terminated.

(c) No Law. There shall be no Law or Order enacted or in effect that prohibits or makes illegal the sale of the Transferred Assets or the other Transactions.

(d) Seller Closing Deliverables. The Seller Parties shall have executed and delivered, or caused to be executed and delivered, to Buyer all of the items set forth in Section 3.03(a).

(e) Bankruptcy Court. The Bankruptcy Court shall have entered the Sale Order and no Order staying, amending, modifying, or reversing the Sale Order shall be in effect.

(f) Material Adverse Effect. No Material Adverse Effect shall have occurred since the Agreement Date and then be continuing.

(g)



Section 10.03. Frustration of Closing Conditions. Neither Seller Parent nor Buyer may rely on the failure of any Closing Condition set forth in this Article X to be satisfied if such failure was caused by such Party's failure to act in good faith or to use reasonable best efforts to cause such Closing Condition to be satisfied.

Section 10.04. Waiver of Closing Conditions. Upon the occurrence of the Closing, any condition set forth in this Article X that was not satisfied as of the Closing shall be deemed to have been waived as of and from the Closing.

ARTICLE XI

TERMINATION

Section 11.01. Termination. Notwithstanding anything in this Agreement to the contrary, this Agreement may be terminated before the Closing:

- (a) by the mutual written consent of Seller Parent and Buyer;
- (b) by Seller Parent, if Buyer shall have breached any representation or warranty or failed to comply with any covenant or agreement applicable to Buyer that would cause any Closing Condition set forth in Section 10.01(a) not to be satisfied, and (i) such breach is not waived by Seller Parent or (ii) if such breach has not been waived by Seller Parent but is curable and is not cured by Buyer prior to the earlier to occur of (A) ten (10) Business Days after receipt by Buyer of Seller Parent's notice of its intent to terminate this Agreement and (B) the Outside Date; *provided, however*, that Seller Parent is not then in material breach of this Agreement such that the Buyer Closing Conditions would not be satisfied;
- (c) by Buyer, if Seller Parent or any other Seller Party shall have breached any representation or warranty or failed to comply with any covenant applicable to Seller Parent or such Seller Party that would cause any Closing Condition set forth in Section 10.02(a) not to be satisfied, and (i) such breach is not waived by Buyer or (ii) if such breach has not been waived by Buyer but is curable and is not cured by Seller Parent or such Seller Party prior to the earlier to occur of (A) ten (10) Business Days after receipt by Seller Parent of Buyer's notice of its intent to terminate this Agreement and (B) the Outside Date; *provided, however*, that Buyer is not then in material breach of this Agreement;
- (d) by either Seller Parent or Buyer, if the Closing shall not have occurred on or before November 22, 2025 (the "**Initial Outside Date**"); *provided, however*, that if (i) the Closing shall not have occurred on or before the Initial Outside Date due to the failure of the Bankruptcy Court to enter the Sale Order, or (ii) the Closing Conditions set forth in Section 10.01(b) and Section 10.02(b) remain unsatisfied or not waived in writing and if all other Closing Conditions (other than those that, by their nature, can only be fulfilled on the Closing Date) are fulfilled or have been waived in writing as of such Initial Outside Date, then, in the case of clause (i) or (ii), the Initial Outside Date shall be automatically extended by three (3) months (as extended, the "**First Extension Outside Date**"); *provided, however*, that if the Closing Conditions set forth in Section 10.01(b) and Section 10.02(b) remain unsatisfied or not waived in writing and if all other Closing Conditions (other than those that, by their nature, can only be fulfilled on the Closing

Date) are fulfilled or have been waived in writing by such First Extension Outside Date, then, such First Extension Outside Date shall be extended by three (3) months (as further extended, the “**Second Extension Outside Date**” and collectively with the Initial Outside Date and First Extension Outside Date, as applicable, the “**Outside Date**”); *provided, further*, that, in each case, (A) Seller Parent may not terminate this Agreement pursuant to this Section 11.01(d) at any time during which Seller Parent is in material breach of this Agreement, and (B) Buyer may not terminate this Agreement pursuant to this Section 11.01(d) at any time during which Buyer is in material breach of this Agreement and, in the case of each of clause (A) and clause (B), such breach is the cause of the Closing occurring after the applicable Outside Date;

(e) by either Seller Parent or Buyer, in the event that any Government Authority of competent jurisdiction shall have issued an Order or enacted a Law that permanently enjoins, restricts or makes illegal the consummation of the purchase of the Transferred Assets and the assumption of Assumed Liabilities contemplated by this Agreement and such Order (as applicable) shall have become final and non-appealable; *provided, however*, that the right to terminate this Agreement under this Section 11.01(e) shall not be available to any Party whose action or failure to fulfill any obligation under this Agreement has been the cause of, or has resulted in, the issuance of such Order or enactment of such Law;

(f) by Seller Parent, or if Buyer is not named the “Back-Up Bidder” at the Auction, Buyer, if (i) Seller Parent or any other Seller Party enters into a definitive agreement with respect, or consummates, to an Alternative Transaction or (ii) the Bankruptcy Court enters an Order approving an Alternative Transaction;

(g) by written notice from Buyer to the Seller Parent, if the Bankruptcy Court enters an Order dismissing or converting the Bankruptcy Cases to cases under chapter 7 of the Bankruptcy Code or if a trustee or examiner with expanded powers to operate or manage the financial affairs or reorganization of the Seller Parties is appointed in the Bankruptcy Case and, in any case, such Order or appointment is not reversed or vacated by the Bankruptcy Court within fourteen (14) days after entry thereof;

(h) by written notice from either Buyer or the Seller Parent to the other Party, if an Order of the Bankruptcy Court is entered denying approval of the Sale Order and such Order becomes final and non-appealable;

(i) by written notice from Buyer to the Seller Parent upon the occurrence of an “Event of Default” under the DIP Credit Agreement and the acceleration of all amounts due thereunder, in each case, that has not been cured (if susceptible to cure) or waived by the applicable percentage of DIP Lenders in accordance with the terms of the DIP Credit Agreement;

(j) by Seller Parent, if (i) all conditions in Section 10.02 (other than those conditions that by their terms are to be satisfied at the Closing) have been and continue to be satisfied or waived, (ii) Seller Parent has irrevocably notified Buyer in writing that (A) all of the conditions set forth in Section 10.01 (other than those conditions that by their terms are to be satisfied at the Closing) have been and continue to be satisfied or waived by Seller Parent and (B) Seller Parent is ready, willing and able to consummate the Closing and (iii) Buyer fails to complete the Closing within two (2) Business Days after the date on which the Closing is required to have

occurred pursuant to Section 2.03 (which failure shall be deemed to be a Funding Willful Breach); *provided, that*, notwithstanding anything in this Section 11.01 to the contrary, no Party shall be permitted to terminate this Agreement during such two (2) Business Day period;

(k) solely after December 31, 2025, by Seller Parent if the board of directors or managers (or other equivalent governing body or committee thereof with similar authority) of Seller Parent determines in good faith, upon advice of outside counsel, that its continued performance under this Agreement would be inconsistent with its fiduciary duties under applicable Law, and only after Seller Parent provides Buyer with reasonably prior written notice describing the applicable fiduciary duty and nature of such inconsistency; or

(l) by Buyer, if the Petition Date shall not have occurred on or prior to May 28, 2025.

For the avoidance of doubt, each condition permitting valid termination of this Agreement set forth in this Section 11.01 shall be considered separate and distinct from each other such condition and, if more than one termination condition set forth in this Section 11.01 is applicable, the Party exercising any such termination right shall have the right to choose the termination condition pursuant to which this Agreement is to be validly terminated.

Section 11.02. Notice of Termination. Other than with respect to termination under Section 11.01(a), if either Buyer or Seller Parent desires to terminate this Agreement pursuant to Section 11.01, such Party shall give written notice of such termination to the other Party.

Section 11.03. Effect of Termination; Exclusive Remedy.

(a) If this Agreement is validly terminated pursuant to Section 11.01, this Agreement shall thereupon become null and void and of no further force and effect, except for the provisions of (i) Section 6.03, (ii) the reimbursement and indemnification obligations (if any) of Buyer pursuant to Section 6.12, (iii) Section 8.01, (iv) this Section 11.03, (v) Section 3.02, (vi) Article XII, (vii) the rights and obligations of the parties to the Confidentiality Agreement, subject to the terms and conditions thereof, and (viii) the rights and obligations of the Parties pursuant to the Letters of Credit, subject to the terms and conditions hereof and thereof, (clauses (i)-(viii) collectively, the “**Surviving Provisions**”) each of which shall survive such termination; *provided, however* that nothing in this Section 11.03(a) shall be deemed to (A) release any Party from any Liability for any (x) Willful Breach or Funding Willful Breach prior to the valid termination of this Agreement or (y) Fraud, as determined by the Bankruptcy Court, or (B) impair the right of any Party to compel specific performance in accordance with Section 12.17 by any other Party of its obligations under this Agreement (including pursuant to any Surviving Provision).

(b) Notwithstanding Section 11.03(a), in the event of a valid termination of this Agreement (i) by Seller Parent pursuant to Section 11.01(b), (ii) by Buyer pursuant Section 11.01(d) at a time when Seller Parent is permitted to deliver notice of its intent to validly terminate this Agreement pursuant to Section 11.01(b) or Section 11.01(j) or (iii) by Seller Parent pursuant to Section 11.01(j), in each case of clause (i) through clause (iii) (each, a “**Specified Termination**”) then (A) Seller Parent and Buyer shall, within two (2) Business Days after the date

such termination, deliver Joint Written Instructions to the Escrow Agent directing the Escrow Agent to pay an amount equal to the Deposit Escrowed Funds to Seller Parent and (B) Buyer shall either (x) pay to Seller Parent or its designee, in cash, by wire transfer of immediately available funds, no later than two (2) Business Days after the date of such termination, an amount equal to the Letter of Credit Amount or (y) inform Seller Parent in writing of its intent not to make the payment contemplated by clause (x). If after three (3) Business Days of such Specified Termination, Buyer has not paid (or caused to be paid) the Letter of Credit Amount, then, Seller Parent or its designee shall be entitled to (and may thereafter) draw upon the Letters of Credit in an aggregate amount up to the Letter of Credit Amount in accordance with Section 3.02 and the terms and conditions of the applicable Letters of Credit minus any amounts paid by Buyer (if any) (the “**Letter of Credit Funding**”). Buyer acknowledges that the agreements contained in this Section 11.03(b) are an integral part of the Transactions, and that without these agreements, Seller Parent would not have entered into this Agreement; accordingly, if (x) Buyer fails to timely deliver such Joint Written Instructions when obligated hereunder or (y) takes or fails to take any action that prevents the Escrow Agent from releasing the Deposit Escrowed Funds to Seller Parent or the Letters of Credit issuer from making the payments due to Seller Parent, in each case, pursuant to this Section 11.03(b) and, in order to obtain such payment, Seller Parent commences an Action which results in a final and non-appealable judgment from a court of competent jurisdiction against Buyer for any such payment set forth in this Section 11.03(b) or a breach of this Section 11.03(b), then Buyer shall pay Seller Parent its reasonable, documented and out-of-pocket costs and expenses (including reasonable and documented attorney’s fees and disbursements) in connection with such Action, together with interest on such payment (which shall accrue at the “prime rate” as published in the Wall Street Journal, Eastern Edition on the date such payment was first required to be paid, and which shall accrue and compound daily from the date on which such payment was first required to be paid through the date of full payment thereof), (such costs, expenses, and interest, the “**Enforcement Expenses**”).

(c) Notwithstanding Section 11.03(a), in the event of (i) a valid termination of this Agreement pursuant to Section 11.01 (other than a valid Specified Termination), or (ii) Buyer paying (or causing the payment of) the full amount of the Specified Reverse Termination Amount within two (2) Business Days of any Specified Termination, then in each case, Buyer and Seller Parent shall, within five (5) Business Days following the date of such termination or payment (as applicable), (A) deliver Joint Written Instructions to the Escrow Agent directing the Escrow Agent to release all of the Deposit Escrowed Funds to Buyer and (B) provide notice to the LC Issuers that the Letters of Credit is terminated and of no further force and effect.

(d) Notwithstanding anything to the contrary herein (but subject to Section 12.05, the other applicable provisions of this Section 11.03, and to the extent set forth in this Section 11.03(d), Section 12.17), except with respect to claims for Fraud:

(i) in each case, prior to the consummation of the Closing or after the termination of this Agreement (i.e., whether in the event of (x) Buyer’s Funding Willful Breach, (y) Buyer’s Willful Breach prior to the consummation of the Closing or after the termination of this Agreement, or (z) any other breach of or failure to perform under this Agreement by Buyer (or otherwise) prior to the consummation of the Closing or after the termination of this Agreement), the Seller Parties’ and their Non-Party Affiliate’s sole and exclusive remedy (whether in contract or in tort, in Law or in equity or otherwise, or granted by statute or otherwise, whether by or

through attempted piercing of the corporate, limited partnership, or limited liability company veil, or any other theory or doctrine, including alter ego or otherwise) against Buyer, Buyer Parent, and its and their respective Non-Party Affiliates for any breach, loss, Liability, or damage or failure to perform under the Transaction Agreements, the Transactions, or in respect of representations made or alleged to be made in connection herewith or in any other Transaction Agreement shall be (subject to the other terms of this agreement, including Section 12.05 as applicable):

(A) specific performance pursuant to, and on the terms and conditions set forth in, Section 12.17, (I) prior to the termination of this Agreement or the Closing or (II) with respect to the Surviving Provisions following the termination of this Agreement;

(B) the valid termination of this Agreement pursuant to and in accordance with Section 11.01;

(C) following a valid Specified Termination pursuant to Section 11.01(j), (I) to receive (aa) the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) in accordance with Section 11.03(b), (bb) Enforcement Expenses, and (cc) amounts payable or reimbursable under Section 6.12(a) and (II) a claim for (and the right to pursue an Action for) (aa) the amounts contemplated by the foregoing clause (I) to the extent payable and not timely paid hereunder and (bb) monetary damages, not to exceed the Funding Willful Breach Cap in the aggregate (but for the avoidance receipt of the payments and amounts set forth in the foregoing clause (I) shall not count towards the amount of the Funding Willful Breach Cap);

(D) following any other valid Specified Termination (other than pursuant to Section 11.01(j)), (I) to receive (aa) the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) in accordance with Section 11.03(b), (bb) Enforcement Expenses, and (cc) amounts payable or reimbursable under Section 6.12(a) and (II) a claim for (and the right to pursue an Action for) the amounts contemplated by the foregoing clause (I) to the extent payable and not timely paid hereunder; or

(E) following any termination of this Agreement that is not a Specified Termination, to the extent of a Willful Breach or other breach of Surviving Provisions, a claim for (and the right to pursue an Action for) monetary damages, not to exceed the Specified Reverse Termination Amount in the aggregate, and Enforcement Expenses.

(ii) In each case, prior to the consummation of the Closing or after the termination of this Agreement (i.e., whether in the event of (x) Buyer's Funding Willful Breach, (y) Buyer's Willful Breach prior to the consummation of the Closing or after the termination of this Agreement, or (z) any other breach of or failure to perform under this Agreement by Buyer (or otherwise) prior to the consummation of the Closing or after the termination of this

Agreement),, no Seller Party nor any of their respective Affiliates or Non-Party Affiliates shall be entitled to bring, and shall in no event support, facilitate, encourage or take any action other than opposing the bringing of any action or other Action against Buyer, Buyer Parent or any of their respective Affiliates or Non-Party Affiliates (and neither Buyer, Buyer Parent nor any of their respective Affiliates or Non-Party Affiliates shall have any Liability) with respect to, arising out of, relating to or in connection with this Agreement or the other Transaction Agreements and the Transactions and Buyer Transactions, in each case, other than pursuant to the remedies set forth in Section 11.03(d)(i) subject to the terms and limitations herein.

(e) In no event shall: (A) the Seller Parties be permitted or entitled to receive both (x) a grant of specific performance of this Agreement resulting in the consummation of the Closing and (y) receipt of the aggregate amount of the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) or any other monetary damages hereunder; (B) the payment of the aggregate amount of the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) occur more than once; (C) the Letter of Credit Funding (including if Buyer pays (or causes to be paid) such Letter of Credit Amount) or the payment of the Deposit Escrowed Amounts (if applicable), in either case, occur on more than one occasion; or (D) the Seller Parties be permitted or entitled to receive both (x) monetary damages, on the one hand, and (y) the Letter of Credit Funding or other payment of the Letter of Credit Amount and/or payment of the Deposit Escrowed Amounts (if applicable) following the termination of this Agreement, on the other hand, other than to the extent of Fraud or Funding Willful Breach.

(f) Nothing in this Section 11.03 shall prohibit any Seller Party from pursuing its right to obtain specific performance pursuant to Section 12.17 prior to the termination of this Agreement or Closing, or with respect to Surviving Provisions following the termination of this Agreement or Surviving Covenants following the Closing. The Parties further acknowledge that Seller Parties may pursue both (i) a grant of specific performance in accordance with Section 12.17, on the one hand, and (ii) (x) the payment of the Specified Reverse Termination Amount (whether by way of payment by (or on behalf of) Buyer, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof), or (y) solely in the event of a Funding Willful Breach, a claim for monetary damages not to exceed the Funding Willful Breach Cap, on the other hand, subject to the terms of this Section 11.03. For the avoidance of doubt, the availability of Seller Parent's right to terminate this Agreement pursuant to a Specified Termination shall in no way obligate any Seller Party to pursue the remedy provided in Section 11.03(a), and unless and until this Agreement is terminated, the Seller Parties shall retain and reserve all rights to enforce specific performance of this Agreement pursuant to Section 12.17, resulting in the consummation of the Closing, subject to the terms hereof.

(g) Seller Parent (on behalf of itself and the Seller Parties) acknowledges that the agreements contained in this Section 11.03 are an integral part of the Transactions and that, without these agreements, the Parties would not enter into this Agreement. The Parties acknowledge and hereby agree that, except in the case of Fraud, in the event of a Specified Termination, the payment of the aggregate amount of the Specified Reverse Termination Amount to Seller Parent (whether by way of payment by Buyer, Buyer Parent or their respective Non-Party

Affiliates, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof), if, as and when required pursuant to this Section 11.03, shall not constitute a penalty but will be liquidated damages, in a reasonable amount that will compensate the party receiving such amount in the circumstances in which it is payable for the efforts and resources expended and opportunities foregone while negotiating this Agreement and in reliance on this Agreement and on the expectation of the consummation of the Transactions, which amount would otherwise be impossible to calculate with precision.

(h) Notwithstanding the foregoing or anything to the contrary herein, nothing in this Agreement shall restrict, limit, impair, modify or otherwise adversely affect (i) the ability of any party to bring any claim or other Action following the Closing under or arising from the R&W Insurance Policy, (ii) the ability of either Party to seek transfer or other rights and remedies pursuant to Section 7.03, (iii) the ability of any party to bring any claim or any Action with respect to Fraud, (iv) subject in each case (and collectively in all such cases) to Section 12.05, following the Closing, the Seller Parties right to pursue remedies that are available to them with respect to any breach of or failure to perform under the Surviving Covenants; *provided, however*, that Seller Parent hereby agrees that its remedies with respect to breaches of or failure to perform under Sections 6.08(c), 6.08(e), 6.08(h), 6.08(j), 7.02(a), 7.02(b), shall be limited to equitable remedies, or (v) the rights and remedies of the Parties pursuant to or under the other Transaction Agreements, which shall be subject to the terms and conditions thereof.

ARTICLE XII

MISCELLANEOUS

Section 12.01. Rules of Construction. Unless a clear contrary intention appears, the following rules of construction shall govern the interpretation of this Agreement:

(a) references to “applicable” Law or Laws with respect to a particular Person, thing or matter means only such Law or Laws as to which the Government Authority that enacted or promulgated such Law or Laws has jurisdiction over such Person, thing or matter as determined under the Laws of the State of Delaware, as required to be applied thereunder by the Bankruptcy Court;

(b) references to any statute, rule, regulation or form (including in the definition thereof) shall be deemed to include references to such statute, rule, regulation or form as amended, modified, supplemented, or replaced from time to time (and, in the case of any statute, include any rules and regulations promulgated under such statute), and all references to any section of any statute, rule, regulation or form include any successor to such section;

(c) when calculating the period of time before which, within which or following which any act is to be done, notice to be given, or step to be taken pursuant to this Agreement, the date that is referenced in beginning the calculation of such period will be excluded and the Parties shall have until 11:59 pm ET on such the reference date (for example, if an action is to be taken within two (2) days after a triggering event and such event occurs on a Tuesday, then the action must be taken on or before Thursday at 11:59 pm ET); if the applicable provision calculates the

period of time using Business Days and the last day of such period is a non-Business Day, the period in question will end on the next succeeding Business Day;

(d) whenever the context requires, words in the singular shall be held to include the plural and vice versa, and words of one gender shall be held to include the other gender;

(e) (i) the provision of a table of contents, the division into Articles, Sections and other subdivisions and the insertion of headings are for convenience of reference only and shall not affect or be utilized in construing or interpreting this Agreement and (ii) references to the terms “Article,” “Section,” “subsection,” “subclause,” “clause,” “Schedule” and “Exhibit” are references to the Articles, Sections, subsections, subclauses, clauses, Schedules and Exhibits to this Agreement unless otherwise specified;

(f) (i) the terms “hereof,” “herein,” “hereby,” “hereto”, and derivative or similar words refer to this entire Agreement, including the Disclosure Schedules, Schedules, and Exhibits hereto, (ii) the terms “thereof,” “therein,” “thereby,” “thereto”, and derivative or similar words refer to this Agreement to which the context refers, including the Disclosure Schedules, Schedules, and Exhibits hereto, (iii) the terms “include,” “includes,” “including”, and words of similar import when used in this Agreement mean “including, without limitation” unless otherwise specified, (iv) the term “any” means “any and all”, (v) the term “or” shall not be exclusive and shall mean “and/or” unless the context requires otherwise, and (vi) the term “manager” shall refer to the manager of a limited liability company and not to an employee title of “manager”;

(g) (i) references to “days” means calendar days unless Business Days are expressly specified, (ii) references to “written” or “in writing” include in electronic form (including by e-mail transmission or electronic communication by portable document format (.pdf)), and (iii) references to “\$” mean U.S. dollars;

(h) references to any Person includes such Person’s successors and permitted assigns only if such successors or assigns are permitted by this Agreement and references to a Person in a particular capacity excludes such Person in any other capacity;

(i) whenever this Agreement requires any Seller Party to take any action, (i) such requirement shall be deemed to involve an undertaking on the part of Seller Parent to take such action or to cause such Seller Party, to take such action, (ii) Seller Parent shall be responsible for causing each Seller Party to perform such Seller Party’s obligations under and in compliance with this Agreement and (iii) Seller Parent shall be responsible for any breach of any Seller Party, as if Seller Parent directly caused such breach;

(j) unless the context otherwise requires, the word “extent” in the phrase “to the extent” means the degree to which a subject or other thing extends, and such phrase does not mean simply “if”;

(k) the words “will” and “will not” are expressions of command and not merely expressions of future intent or expectation, in each case, unless the context otherwise requires;

(l) references in any Section or definition to any clause means any clause in such Section or definition unless expressly provided otherwise;

(m) whenever this Agreement states that documents or other information have been “made available” or “provided to” Buyer (including words of similar import), such words shall mean that such documents or information referenced shall have been posted in and made accessible to Buyer the Dataroom, at least two (2) Business Days prior to and through the Agreement Date;

(n) each representation and warranty herein shall be deemed to be given independent effect; and

(o) each Party has participated in the negotiation and drafting of this Agreement, and if an ambiguity or question of interpretation should arise, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or burdening any Party by virtue of the authorship of any provision in this Agreement; the language used in this Agreement will be deemed to be the language chosen by the Parties to express their mutual intent, and no rule of strict construction will be applied against any Party. Further, prior drafts of this Agreement or any ancillary agreements, schedules or exhibits thereto or the fact that any clauses have been added, deleted, or otherwise modified from any prior drafts of this Agreement or any ancillary agreements, schedules or exhibits hereto shall not be used as an aide of construction or otherwise constitute evidence of the intent of the Parties; and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of such prior drafts.

Section 12.02. Expenses. Except as otherwise specified in the Transaction Agreements, each Party will pay its own costs and expenses, including legal, consulting, financial advisor and accounting fees and expenses, incurred in connection with the Transaction Agreements and the Transactions, irrespective of when incurred or whether or not the Closing occurs; *provided, however*, that Buyer shall be responsible for the fees and expenses of the Escrow Agent. Upon the execution and delivery of this Agreement, the Expense Reimbursement Agreement shall terminate in full and be of no further force and effect, except for those terms which survive termination of the Expense Reimbursement Agreement thereunder.

Section 12.03. Notices. All notices and other communications under or by reason of this Agreement shall be in writing and shall be deemed to have been duly given or made (a) when personally delivered, (b) when delivered by e-mail transmission (absent notice of delivery failure), or (c) upon delivery by overnight courier service, in each case, to the addresses and attention parties indicated below (or such other address, e-mail address, or attention party as the recipient party has specified by prior notice given to the sending party in accordance with this Section 12.03):

If to Seller Parent, to:

Midwest Fiber Holdings LP
c/o Everstream Solutions LLC
1228 Euclid Ave. Suite 250
Cleveland, Ohio 44115
Attention: Bill Hunt, General Counsel
E-mail: bhunt@everstream.net;
legalnotices@everstream.net

with a copy (which will not constitute notice) to:

Weil, Gotshal & Manges LLP
767 Fifth Avenue
New York, New York 10153
Attention: Matt Barr; Andriana Georgallas;
Mariel E. Cruz
E-mail: matt.barr@weil.com;
andriana.georgallas@weil.com;
mariel.cruz@weil.com

If to Buyer, to:

c/o MIP IV Midwest Fiber Parent LLC
9201 Ward Pkwy, Suite 300
Kansas City, MO 64114
Attention: Jason Adkins and Sam Storrs
E-mail: Jason.adkins@bluebirdfiber.com;
sam.storrs@bluebirdfiber.com

with a copy (which will not constitute notice) to each of:

Macquarie Asset Management
660 5th Avenue
New York, NY 10103
Attention: Lincoln Heilner; Emily Toto; MAM Legal
E-mail: Lincoln.heilner@macquarie.com;
Emily.toto@macquarie.com
mamralegalnotices@macquarie.com

Kirkland & Ellis LLP
609 Main Street
Houston, TX
Attention: John Pitts, P.C.; Ben Hardison
E-mail: john.pitts@kirkland.com;
ben.hardison@kirkland.com

Section 12.04. Survival. Except (a) as set forth in Section 3.01, Section 3.04, Section 6.03, Section 6.09 and Section 9.05 and (b) for any covenant that by its express terms is to be performed (in whole or in part) by any Party following the Closing (which covenants shall survive the Effective Time in accordance with their express terms) (“**Surviving Covenants**”), none of the representations, warranties, or covenants of any Party set forth in this Agreement shall survive, and each of the same shall terminate and be of no further force or effect as of, the Effective Time.

Section 12.05. Limitation on Liability. Notwithstanding anything in this Agreement or in any other Transaction Agreement to the contrary, and except in the event of Fraud: (a) the maximum aggregate Liability of the Seller Parties under this Agreement, whether in contract or in tort, in Law or in equity or otherwise, or granted by statute or otherwise, whether by or through attempted piercing of the corporate, limited partnership, or limited liability company veil, or any other theory or doctrine, including alter ego or otherwise, shall not exceed the amount of the Termination Payment; (b) in no event shall any Party have any Liability under this Agreement (including under this Article XII) for any punitive damages; and (c) the maximum aggregate Liability of Buyer, Buyer Parent and their respective Non-Party Affiliates under this Agreement, collectively, whether in contract or in tort, in Law or in equity or otherwise, or granted by statute

or otherwise, whether by or through attempted piercing of the corporate, limited partnership, or limited liability company veil, or any other theory or doctrine, including alter ego or otherwise, (taking into account all claims hereunder, all amounts funded under Letters of Credit and from the Deposit Escrow Account, which shall be deemed to have been paid and borne by Buyer hereunder), including in the case of Willful Breach, shall not exceed: (i) except in the case of Fraud or Funding Willful Breach, (A) the Specified Reverse Termination Amount, plus (B) Enforcement Expenses, plus (C) all amounts payable or reimbursable under Section 6.12(a); and (ii) in the case of Funding Willful Breach only, (A) the Specified Reverse Termination Amount then unpaid, and after accounting for amounts recovered by Seller Parent or any Seller Party in accordance with this Agreement (including by way of payment by (or on behalf of) Buyer or Buyer Parent, Letter of Credit Funding, disbursement of the Deposit Escrowed Amount from the Deposit Escrow Account, or a combination thereof) plus (B) monetary damages determined by a court of competent jurisdiction, which shall not exceed the Funding Willful Breach Cap in the aggregate; for the avoidance of doubt, in no event shall such aggregate Liability (collectively considering all sources and/or means of recovery) in the event of Funding Willful Breach exceed \$71,250,000 in the aggregate.

Section 12.06. Public Announcements. The initial press release with respect to the execution of this Agreement shall be a joint press release to be reasonably agreed upon by the Parties. Seller Parent, its Affiliates, or its Representative shall be responsible for issuing such press release on a relevant newswire once Seller Parent's Bankruptcy Cases have commenced, with notification to Buyer upon issuance. Following issuance, both Parties shall be able to post such release on their respective websites. No Party nor any Affiliate or Representative of such Party shall communicate with any news media in respect of the Transaction Agreements or the Transactions prior to the commencement of the Bankruptcy Cases without the prior written consent of the other Party (which consent shall not be unreasonably withheld, conditioned or delayed), except as a Party believes in good faith and based on reasonable advice of counsel is required by applicable Law or by Order of the Bankruptcy Court (in which case the disclosing Party, to the extent practicable, shall (a) advise the other Party before making such disclosure and (b) provide such other Party a reasonable opportunity to review and comment on such release or announcement and consider in good faith any comments with respect thereto). Notwithstanding the foregoing, Buyer and its Affiliates shall be entitled to disclose the existence of this Agreement, the Transaction Agreements, and the contents thereof and thereof, and the completed Transactions and the Buyer Transactions, including the return thereof, to investors and limited partners, and to prospective investors or other Persons as part of fundraising or marketing activities undertaken by Buyer or any of its Affiliates provided such disclosures are made to Persons subject to an obligation of confidentiality with respect to such information and *provided* that financial information are not disclosed publicly.

Section 12.07. Severability. If any term or provision of this Agreement is held invalid, illegal or unenforceable in any respect under any applicable Law, as a matter of public policy or on any other grounds, the validity, legality, and enforceability of all other terms and provisions of this Agreement will not in any way be affected or impaired. If the final judgment of a court of competent jurisdiction or other Government Authority declares that any term or provision hereof is invalid, illegal or unenforceable, the Parties agree that such invalidity, illegality or unenforceability will not affect any other provision or portion of any provision in such jurisdiction,

and this Agreement will be reformed, construed and enforced in such jurisdiction as if such invalid, illegal or unenforceable provision or portion of any provision had never been contained herein.

Section 12.08. Assignment. This Agreement will be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the Parties, including any trustee or estate representative appointed in the Bankruptcy Cases or any successor Chapter 7 cases. No Party may assign (whether by operation of Law or otherwise) this Agreement or any rights, interests, or obligations provided by this Agreement without the prior written consent of the other Parties; *provided, however*, that (a) Buyer may assign this Agreement and any or all rights, interests, or obligations under this Agreement to any of its Affiliates (but only for so long as such Affiliate remains an Affiliate) and Buyer may assign pursuant to a collateral assignment any of its rights hereunder to any of its Debt Financing Sources as collateral security for the Debt Financing and (b) Seller Parent may assign any of its rights, interests, or obligations under this Agreement to any of its Affiliates or to any plan administrator, liquidator, examiner, receiver, trustee, or similar party appointed on its behalf following that Closing; *provided, further*, that no such assignment pursuant to the foregoing shall release any assignor (or assignee) from any Liability under this Agreement; *provided further*, that if Buyer or Seller Parent assigns this Agreement or any or all rights, interests, or obligations under this Agreement to any of their respective Affiliates and such Affiliate thereafter ceases to be an Affiliate of Buyer or Seller Parent (as applicable), then such Person shall immediately reassign this Agreement, and any such rights, interests, or obligations back to Buyer or Seller Parent (as applicable) or another Affiliate of Buyer or Seller Parent (as applicable). Any attempted assignment in violation of this Section 12.08 shall be void *ab initio*.

Section 12.09. No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their respective successors and permitted assigns, and, except with respect to the Non-party Affiliates pursuant to Section 12.18, or as otherwise expressly set forth in this Agreement (including pursuant to Section 7.07 and Section 12.21), nothing in this Agreement shall create or be deemed to create any third-party beneficiary rights in any Person not a party hereto, including any Affiliates of any Party, except that the Debt Financing Sources shall be express intended third party beneficiaries of each of the Debt Financing Source Provisions to the extent applicable thereto (in each case, together with any related definitions and other provisions of this Agreement to the extent a modification or termination would serve to modify the substance or provisions of such sections).

Section 12.10. Parent Guarantee. Buyer Parent hereby irrevocably and unconditionally guarantees the due and punctual performance Buyer's obligation hereunder to (i) pay expenses expressly required to be borne by Buyer when due and payable pursuant to and in accordance with this Agreement or make any other payment obligations of Buyer under this Agreement or otherwise arising out of or relating to the Transactions (for which Buyer is responsible hereunder), including Section 2.02, Section 3.01(c)(iii), Section 6.04, Section 6.13(b) and Section 12.02 and (ii) pay monetary damages when due and payable pursuant to Section 11.03, subject to the other terms hereof (including Section 12.05) (clause (i) and clause (ii) collectively, the "**Guaranteed Obligations**"). The Guaranteed Obligations provided in this Section 12.10 are primary and original obligations of Buyer Parent. Seller Parent may enforce such Guaranteed Obligations directly against Buyer Parent without being required to first seek to enforce such Guaranteed Obligations against Buyer. Buyer Parent hereby waives promptness, diligence, notice of acceptance of this Section 12.10 and of the guarantee, presentment, demand for payment, notice

of nonperformance, default, dishonor and protest, notice of the incurrence of any such Guaranteed Obligation and all other notices of any kind, all defenses which may be available by virtue of any stay or moratorium Law now or hereafter in effect, any right to require the marshaling of assets of Seller Parent or any other Person interested in the Transactions, and all suretyship defenses (in each case, other than payment in full of the such Guaranteed Obligation subject to the terms hereof).

Section 12.11. Entire Agreement. This Agreement (including the Disclosure Schedules) and the other Transaction Agreements (and all Exhibits and Schedules hereto and thereto) and the Confidentiality Agreements collectively constitute and contain the entire agreement and understanding of the Parties with respect to the subject matter hereof and thereof and supersede all prior or contemporaneous negotiations, correspondence, understandings, agreements, and Contracts, whether written or oral, among the Parties respecting the subject matter hereof and thereof.

Section 12.12. Amendments. This Agreement (including the Disclosure Schedules and all Exhibits and Schedules hereto) may be amended, restated, supplemented, or otherwise modified, only by written agreement duly executed by each Party, *provided* that no amendment or modification of, or supplements to the definition of “Debt Financing Sources” or the Debt Financing Source Provisions (or, in each case, any of the defined terms used therein or any other provision of this Agreement to the extent a modification, waiver or termination of such defined term or provision would modify the substance of any of the Debt Financing Source Provisions), in each case, in a manner adverse to Buyer’s Debt Financing Sources shall be effective without the prior written consent of the applicable Debt Financing Sources.

Section 12.13. Waiver. At any time, either Seller Parent or Buyer may, by written instrument duly executed by the waiving Party, (a) extend the time for the performance of any obligation or other acts of the other Party, (b) waive any breaches or inaccuracies in the representations and warranties of the other Party contained in this Agreement or in any document delivered pursuant to this Agreement, or (c) waive compliance with any covenant, agreement or condition contained in this Agreement, but such waiver of compliance with any such covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure. No failure on the part of any Party to exercise, and no delay in exercising, any right, power, or remedy under this Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of such right, power, or remedy by such Party preclude any other or further exercise thereof or the exercise of any other right, power or remedy.

Section 12.14. Governing Law. This Agreement, and any Action or claim that may be based upon, arise out of or relate or be incidental to any Transaction, this Agreement, the negotiation, execution, performance, or consummation of the foregoing or the inducement of any Party to enter into the foregoing, whether for breach of Contract, tortious conduct, or otherwise, and whether now existing or hereafter arising (each, a “**Transaction Dispute**”), will be exclusively governed by and construed and enforced in accordance with the internal Laws of the State of Delaware, without giving effect to any Law or rule that would cause the Laws of any jurisdiction other than the State of Delaware to be applied. Notwithstanding anything in this Agreement to the contrary, all issues and questions concerning the construction, validity, interpretation and enforceability of the Debt Commitment Letter, or any of the transactions contemplated hereby or

thereby (except to the extent explicitly provided for in the Debt Commitment Letter), including any claim, controversy or dispute arising out of or relating in any way to the Debt Financing (whether based in contract, tort or otherwise) or the performance thereof, shall be governed by, and construed in accordance with, the laws of the State of New York, without giving effect to any choice of law or conflict of law rules or provisions (whether of the State of New York or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New York. Notwithstanding anything in this Agreement to the contrary, each of the parties hereto agrees that it will not bring, or permit any of its Affiliates to bring, any suit, action or other proceeding of any kind or description, whether in law or in equity, whether in contract or in tort or otherwise, against any Debt Financing Source arising out of or relating to (i) the Debt Financing or (ii) this Agreement, any other Transaction Agreement or any of the transactions contemplated hereby or thereby, in any forum other than a court of competent jurisdiction located within the Borough of Manhattan in the City of New York, New York, whether a state or federal court.

Section 12.15. Dispute Resolution; Consent to Jurisdiction.

(a) Without limiting any Party's right to appeal any Order of the Bankruptcy Court, (i) the Bankruptcy Court shall retain exclusive jurisdiction to enforce the terms of this Agreement and to decide any Transaction Dispute which may arise or result from, or be connected with, this Agreement, any breach or default hereunder, or the Transactions, and (ii) any and all proceedings related to the foregoing shall be filed and maintained only in the Bankruptcy Court, and the Parties hereby consent to and submit to the jurisdiction and venue of the Bankruptcy Court and shall receive notices at such locations as indicated in Section 12.03 (as may be updated from time to time in accordance with Section 12.03); *provided, however*, upon the closing of the Bankruptcy Cases, the Parties agree to unconditionally and irrevocably submit to the exclusive jurisdiction of the Court of Chancery of the State of Delaware and any appellate court from any thereof, for the resolution of any such Transaction Dispute. In that context, and without limiting the generality of the foregoing, each Party irrevocably and unconditionally:

(i) submits for itself and its property to the exclusive jurisdiction of such courts with respect to any Transaction Dispute and for recognition and enforcement of any judgment in respect thereof, and agrees that all claims in respect of any Transaction Dispute shall be heard and determined in such courts;

(ii) agrees that venue would be proper in such courts, and waives any objection that it may now or hereafter have that any such court is an improper or inconvenient forum for the resolution of any Transaction Dispute; and

(iii) agrees that the mailing by certified or registered mail, return receipt requested, to the Persons listed in Section 12.03 (as may be updated from time to time in accordance with Section 12.03) of any process required by any such court, will be effective service of process; *provided, however*, that nothing herein will be deemed to prevent a Party from making service of process by any means authorized by the Laws of the State of Delaware.

(b) The foregoing consent to jurisdiction will not constitute submission to jurisdiction or general consent to service of process in the State of Delaware for any purpose except with respect to any Transaction Dispute.

Section 12.16. WAIVER OF JURY TRIAL. TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY IRREVOCABLY AND UNCONDITIONALLY WAIVES ANY RIGHT TO TRIAL BY JURY IN ANY FORUM IN RESPECT OF ANY TRANSACTION DISPUTE AND COVENANTS THAT NEITHER IT NOR ANY OF ITS AFFILIATES OR REPRESENTATIVES WILL ASSERT (WHETHER AS PLAINTIFF, DEFENDANT OR OTHERWISE) ANY RIGHT TO SUCH TRIAL BY JURY. EACH PARTY CERTIFIES AND ACKNOWLEDGES THAT (A) SUCH PARTY HAS CONSIDERED THE IMPLICATIONS OF THIS WAIVER, (B) SUCH PARTY MAKES THIS WAIVER VOLUNTARILY, AND (C) SUCH WAIVER CONSTITUTES A MATERIAL INDUCEMENT UPON WHICH SUCH PARTY IS RELYING AND WILL RELY IN ENTERING INTO THIS AGREEMENT. EACH PARTY MAY FILE AN ORIGINAL COUNTERPART OR A COPY OF THIS SECTION 12.16 WITH ANY COURT AS WRITTEN EVIDENCE OF THE CONSENT OF EACH PARTY TO THE WAIVER OF ITS RIGHT TO TRIAL BY JURY. THE PARTIES HERETO CONSENT TO TRIAL WITHOUT A JURY IN ANY SUCH ACTION OR PROCEEDING OR COUNTERCLAIM BROUGHT BY ANY PARTY HERETO AGAINST ANY DEBT FINANCING SOURCE, REGARDLESS OF THE FORM OF ACTION OR PROCEEDING.

Section 12.17. Remedies; Specific Performance.

(a) Except to the extent set forth otherwise in this Agreement, all remedies under this Agreement expressly conferred upon a Party will be deemed cumulative with and not exclusive of any other remedy conferred hereby, or by Law or equity upon such Party, and the exercise by a Party of any one remedy will not preclude the exercise of any other remedy.

(b) Each Party agrees that irreparable damage would occur, and the Parties would not have an adequate remedy at law if any provision of this Agreement is not performed in accordance with its specific terms or is otherwise breached. Accordingly, each Party agrees that the other Party will be entitled to injunctive relief from time to time to prevent breaches of the provisions of this Agreement and to enforce specifically the terms and provisions of this Agreement and the Equity Commitment Letter, in each case (i) without the requirement of posting any bond or other indemnity and (ii) in addition to any other remedy to which it may be entitled, at law or in equity. Furthermore, each Party agrees not to raise any objections to the availability of the equitable remedy of injunctive relief or specific performance to prevent or restrain breaches of this Agreement and the Equity Commitment Letter, and to specifically enforce the terms of this Agreement and the Equity Commitment Letter to prevent breaches or threatened breaches of, or to enforce compliance with, the covenants and obligations of such Party under this Agreement and the Equity Commitment Letter, in each case, subject to the terms, conditions and limitations herein and therein. Each Party expressly disclaims that it is owed any duty not expressly set forth in this Agreement, and waives and releases all tort claims and tort causes of action that may be based upon, arise out of, or relate to this Agreement, or the negotiation, execution, or performance of this Agreement other than claims for (A) Willful Breach or Funding Willful Breach prior to the valid termination of this Agreement in accordance with Article XI, in each case subject to Section 11.03 and Section 12.05, or (B) Fraud, as determined by the Bankruptcy Court.

(c) Notwithstanding anything in this Agreement to the contrary (including Section 12.17(b)), but subject to Section 11.03(d) (as applicable), it is acknowledged and agreed

that the right of Seller Parent to obtain specific performance to cause the Equity Financing to be funded and Buyer to consummate the Transactions and the other Buyer Transactions shall be subject to the satisfaction of the following conditions: (i) all of the conditions set forth in Section 10.02 have been satisfied or waived (other than those conditions that by their nature are to be satisfied at the Closing and which are, at the time that Seller Parent or such other Person seek specific performance pursuant to this Section 12.17, capable of being satisfied if the Closing were to occur at such time, and remain so satisfied or waived on the date the Closing is required to have occurred pursuant to this Agreement), (ii) the date on which Buyer is required to close pursuant to Section 2.03 shall have occurred and Buyer has failed to complete the Closing on such date, (iii) the Debt Financing (or any Alternative Financing) has been funded or will be funded at the Closing (or will be so funded if the Equity Financing is funded at or prior to the Closing) and (iv) Seller Parent (on behalf of itself and the Seller Parties) has irrevocably confirmed in writing to Buyer that (A) all conditions set forth in Section 10.01 have been satisfied or that they would be willing to waive any unsatisfied conditions in Section 10.01 for purposes of consummating the Closing, (B) that Seller Parent (on behalf of itself and the Seller Parties) stand ready, willing and able to consummate the Closing, and (C) if specific performance is granted and the Debt Financing is funded, Seller Parent and each Seller Party will take all such actions that they are required to take pursuant to this Agreement to cause the Closing to occur.

Section 12.18. Non-Recourse.

(a) All claims, obligations, Liabilities, Actions or causes of action (whether in Contract or in tort, in law or in equity, or granted by statute) that may be based upon, in respect of, arise under, out or by reason of, be connected with, or relate in any manner to this Agreement, or the negotiation, execution, or performance of this Agreement (including any representation or warranty made in, in connection with, or as an inducement to, this Agreement), may be made only against (and are expressly limited to) the entities that are expressly identified as parties hereto in the preamble to this Agreement or, if applicable, their successors and assigns (but not any of the senior secured lenders (or any agent thereof) of any of the Seller Parties) (“**Contracting Parties**”). No Person who is not a Contracting Party, including any past, present or future director, officer, employee, incorporator, member, partner, manager, stockholder, Affiliate, agent, consultant, attorney, accountants, financial advisor or other representative of, and any lender to, any Contracting Party, or any director, officer, employee, incorporator, member, partner, manager, stockholder, Affiliate, agent, consultant, attorney, accountants, financial advisor or other representative of, and any lender to, any of the foregoing (other than any of the foregoing that is or becomes a Contracting Party) (“**Non-party Affiliates**”), shall have any Liability (whether in Contract or in tort, in law or in equity, or granted by statute) for any claims, causes of action, obligations, or other Liabilities arising under, out of, in connection with, or related in any manner to this Agreement or based on, in respect of, or by reason of this Agreement or their negotiation, execution, performance, or breach; and, to the maximum extent permitted by Law, each Contracting Party hereby (i) waives and releases all such claims, causes of action, obligations and other Liabilities against any such Non-party Affiliates and (ii) each Party disclaims any reliance upon any Non-party Affiliates with respect to the performance of this Agreement or any representation or warranty made in, in connection with, or as an inducement to this Agreement. It is expressly agreed that the Non-party Affiliates to whom this Section 12.18 applies shall be third-party beneficiaries of this Section 12.18. Notwithstanding anything to the contrary contained in this Section 12.18 or elsewhere in this Agreement, nothing shall limit, restrict or otherwise affect

any claim, Liability, right, remedy or recovery under or based upon (x) any other Transaction Agreement, subject and pursuant to its terms, or (y) Fraud.

(b) Notwithstanding anything in this Agreement to the contrary, the Parties (a) agree on their behalf and on behalf of their respective Affiliates that none of the Debt Financing Sources shall have any liability or obligation to such Persons and/or their respective Affiliates relating to, arising from or in connection with this Agreement or any of the Transactions (including with respect to the Debt Commitment Letter and the Debt Financing), (b) waive any rights or claims against any Debt Financing Source relating to, arising from or in connection with this Agreement (including any of the Transactions), the Debt Commitment Letter or the Debt Financing, whether at law or equity, in contract, in tort or otherwise and (c) agree not to, and shall not, (i) seek to enforce this Agreement or the Debt Commitment Letter against, make any claims whether at law or equity, in contract, in tort or otherwise, for breach of this Agreement or the Debt Commitment Letter, or seek to recover monetary damages (including, for the avoidance of doubt, any special, consequential, punitive, indirect, speculative or exemplary damages or damages of a tortious nature) from, the Debt Financing Sources or (ii) seek to enforce the commitment in respect of any Debt Financing against, make any claims for breach of commitments in respect of any Debt Financing against, or seek to recover monetary damages (including, for the avoidance of doubt, any special, consequential, punitive, indirect, speculative or exemplary damages or damages of a tortious nature) from, or otherwise sue, the Debt Financing Sources, for any reason in connection with commitments in respect of any Debt Financing or the obligations of the Debt Financing Sources thereunder, this Agreement, or any of the Transactions or transactions contemplated by the Debt Financing; *provided* that this Section 12.18(b) shall not affect in any way the rights and remedies of Buyer and/or its Affiliates against the Debt Financing Sources pursuant to the Debt Commitment Letter or any definitive agreement in respect of the Debt Financing.

Section 12.19. Disclosure Schedules and Exhibits. The Disclosure Schedules, Schedules, and Exhibits attached to this Agreement shall be construed with and as an integral part of this Agreement to the same extent as if the same had been set forth verbatim herein. Any capitalized terms used in any Exhibit or Schedule or in the Disclosure Schedules but not otherwise defined therein shall be defined as set forth in this Agreement. The representations and warranties of Seller Parties set forth in this Agreement are made and given subject to the disclosures contained in the Disclosure Schedules, and neither Seller Parent nor any of its Affiliates shall be, or deemed to be, in breach of any such representations and warranties (and no claim shall lie in respect thereof) in respect of any such matter so disclosed in the Disclosure Schedules. Any matter, information, or item disclosed in the Disclosure Schedules under any specific representation or warranty or Schedule or section thereof shall be deemed to be disclosed and incorporated by reference in any other Schedule or section of the Disclosure Schedules as though fully set forth in such other schedule(s) or section(s), to the extent the applicability to such other schedule(s) or section(s) is reasonably apparent on its face. The inclusion of any matter, information or item in the Disclosure Schedules as an exception to a representation or warranty shall not be deemed to constitute (a) an admission of any Liability by the Seller Parties to any third party, (b) an admission that any breach or violation of applicable Laws or any contract or agreement to which any of the Seller Parties are a party exists or has actually occurred, (c) an admission that such item is outside the ordinary course of business or not consistent with past practice, or (d) otherwise imply an admission that such item represents a material exception or material fact, event, circumstance or that such item has had, or would reasonably be expected to have a Material Adverse Effect. The Disclosure

Schedules have been arranged for purposes of convenience in separately titled schedules corresponding to the sections of this Agreement.

Section 12.20. Provision Respecting Legal Representation. Buyer hereby agrees, on behalf of itself, its respective directors, members, partners, officers, employees, Representatives and Affiliates, and its respective successors and assigns (all such parties, the “**Waiving Parties**”), that Weil, Gotshal & Manges LLP (or any successor) and Morgan, Lewis & Bockius LLP (or any successor) (each such legal counsel, “**Prior Counsel**”) may represent any or all of the Seller Parties or any of their respective directors, members, partners, officers, employees, equityholders, Representatives or Affiliates (collectively, the “**Seller Group**”), in each case, in connection with any dispute, litigation, claim, proceeding or obligation arising out of or relating to the Transferred Assets, this Agreement, any Transaction Agreements, or the Transactions or thereby adverse to the Waiving Parties or any other Person. Buyer, on behalf of itself and the Waiving Parties, hereby consents thereto and irrevocably waives (and will not assert) any conflict of interest, breach of duty or any other objection arising therefrom or relating thereto. Notwithstanding the foregoing, if after the Closing a dispute arises between Buyer, the Business, on the one hand, and a third party other than (and unaffiliated with) a Seller Party, on the other hand, then Buyer and Affiliates (to the extent applicable) may assert the attorney-client privilege to prevent disclosure to such third party of confidential communications of the Prior Counsel; *provided* that neither Buyer nor any of its Affiliates may waive such privilege without the prior written consent of the applicable Seller Party (not to be unreasonably withheld, conditioned or delayed). Each of the Prior Counsel are express third party beneficiaries of this Section 12.20 and are entitled to rely thereon.

Section 12.21. Privilege. Buyer, on behalf of itself and the Waiving Parties, hereby irrevocably acknowledge and agree that all communications, written or oral, between any Person in the Seller Group and its counsel, including each Prior Counsel, made in connection with the negotiation, preparation, documentation, execution, delivery and performance under, consummation of, or any dispute or Action arising out of or relating to, this Agreement, any Transaction Agreements or the Transactions, or any matter relating to any of the foregoing, are privileged communications, and survive, remain with and are controlled by the Seller Parties, without any waiver thereof. Accordingly, Buyer shall not have access to any such communications, or to the files of Prior Counsel relating to its engagement, whether or not the Closing shall have occurred. Each of the Prior Counsel are express third party beneficiaries of this Section 12.21 and are entitled to rely thereon. Notwithstanding anything to the contrary herein, nothing in this Section 12.21 shall (x) prohibit or restrict Buyer, the Business or any of their respective Affiliates from seeking proper discovery of documents or information, nor any Seller Party from asserting that such documents and information are not discoverable due to attorney-client privilege or other legal protection or (y) relieve any party or counsel of any applicable professional obligation to comply with customary internal “walls” or similar arrangements in the event of a conflict of interest.

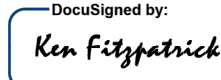
Section 12.22. Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which when taken together shall constitute one and the same instrument. Facsimiles, e-mail transmission of .pdf signatures or other electronic copies of signatures shall be deemed to be originals.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;
SIGNATURE PAGES FOLLOW]

IN WITNESS WHEREOF, Seller Parent, Buyer, and solely for the purposes of Section 6.04 and Article XII, Buyer Parent, have each caused this Agreement to be executed on the Agreement Date by their respective duly authorized officers.

SELLER PARENT:

Midwest Fiber Holdings LP

By: 
Name: Ken Fitzpatrick
Title: Chief Executive Officer

IN WITNESS WHEREOF, Seller Parent, Buyer, and solely for the purposes of Section 6.04 and Article XII, Buyer Parent, have each caused this Agreement to be executed on the Agreement Date by their respective duly authorized officers.

BUYER:

BLUEBIRD MIDWEST, LLC

By:  Signed by:
D8664B6438324AD...
Name: Jason Adkins
Title: Chief Executive Officer

By:  Signed by:
FBD86B5C76B64F9...
Name: Sam Storrs
Title: Secretary and General Counsel

Solely for the purposes of Section 6.04 and Article XII:

BUYER PARENT:

MIP IV MIDWEST FIBER PARENT, LLC

By:  Signed by:
D8664B6438324AD...
Name: Jason Adkins
Title: Chief Executive Officer

By:  Signed by:
FBD86B5C76B64F9...
Name: Sam Storrs
Title: Secretary and General Counsel

Exhibit A

Definitions

“**Action**” means any action, claim, suit, charge, complaint, audit, arbitration, investigation, inquiry or proceeding by or before any Government Authority.

“**Actual Budgeted Capex**” means the aggregate amount of the Non-Success Based Capex actually paid by Seller Parties to an unaffiliated third party during the Capex Measurement Period, solely to the extent such Capital Expenditures were made in accordance with this Agreement and with the Agreed Financial Budget. For the avoidance of doubt, “Actual Budgeted Capex” shall not include any Capital Expenditures (i) incurred but not paid or (ii) to the extent related to the Excluded Business or Excluded Assets.

“**Affiliate**” means, with respect to any specified Person, any other Person that, at the time of determination, directly or indirectly through one or more intermediaries, Controls, is Controlled by or is under common Control with such specified Person; *provided, however*, that, notwithstanding anything to the contrary herein: (a) for the purposes of this Agreement none of Seller Parent or any other Seller Party shall be deemed an Affiliate of Buyer; (b) except with respect to Section 12.05, Section 12.18, and the definition of “Non-party Affiliates”, in no event shall DigitalBridge Group, Inc., and any of its portfolio companies, investment funds or accounts, and any management or advisory entities affiliated with or related to the foregoing, be considered an Affiliate of Seller Parent or any of its Subsidiaries; and (c) except with respect to Section 6.04(g), Section 12.05, Section 12.06, Section 12.18, and the definition of “Non-party Affiliates”, with respect to Buyer, the term “Affiliate” (i) shall only include Buyer and its Subsidiaries and (ii) shall exclude all other current or future non-Subsidiary affiliates of Buyer (including Macquarie Infrastructure Partners IV, LP, Macquarie Asset Management, and/or any portfolio company, investment fund, investment entity, vehicle or account, and/or any management or advisory entities affiliated with or related to the foregoing, or direct or indirect equityholder, member, manager or partner of the foregoing).

“**Agreed Financial Budget**” means the financial budget and plan attached hereto as Exhibit I, which has been agreed to between Buyer and Seller Parent prior to the Agreement Date.

“**Agreement**” means this Asset Purchase Agreement, dated as of the Agreement Date, by and between Seller Parent and Buyer, including the Disclosure Schedules and the Schedules and Exhibits, and all amendments to such agreement made in accordance with Section 12.12.

“**Alternative Transaction**” means, other than (a) the Transactions, the other Transaction Agreements, the MO Divestiture APA, or the IL Divestiture APA, (b) the wind-down of the PA Business, and (c) any chapter 11 plan that does not prevent or impair in any material respect the Transactions or the debtors’ performance in each case in accordance with the terms and conditions of this Agreement, (i) any investment in, financing of, capital contribution or loan to or restructuring or recapitalization of the Seller Parties or any of their respective direct or indirect Subsidiaries (including any exchange of all or a substantial portion of Seller Parties’ or any of their

respective Affiliates' outstanding debt obligations for equity securities of Seller Parties or any of their respective Affiliates), (ii) any merger, consolidation, share exchange or other similar transaction to which Seller Parties or any of their respective Affiliates is a party that has the effect of transferring, directly or indirectly, any portion of the Transferred Assets, (iii) any direct or indirect sale of any portion of the Transferred Assets of, or (iv) any other transaction, including a chapter 11 plan of liquidation or agreement with a liquidation firm (or consortium) for the orderly liquidation of the Seller Parties, all or any portion of the Transferred Assets (other than any wind-down or similar plan or transaction or dismissal with respect to the sale of Excluded Assets) or reorganization (in any jurisdiction, whether domestic, foreign, international or otherwise), including a chapter 11 plan of reorganization, in each instance that transfers or vests ownership of, economic rights to, or benefits in any portion of the Transferred Assets to any party other than Buyer, or (v) if Seller Parties announce any stand-alone plan of reorganization or liquidation (or support any such plan filed by another party) other than a plan of Seller Parties' estates post-Closing pursuant to a plan that permits the Transaction to be consummated in accordance with the terms of this Agreement.

"Anti-Corruption Laws" means the U.S. Foreign Corrupt Practices Act of 1977 (as amended), the United Kingdom Bribery Act 2010 and any other applicable anti-bribery or anti-corruption Law of any jurisdiction.

"Antitrust Laws" means any Laws applicable to Buyer or any Seller Party under any applicable jurisdiction that are designed to prohibit, restrict or regulate actions having the purpose or effect of monopolization or restraint of trade or lessening of competition through merger or acquisition.

"Assumed Employee Plans" means any Employee Plan set forth and designated as such on Schedule 4.13(a).

"Avoidance Actions" means any and all actual or potential avoidance, recovery, subordination, or other claims, Causes of Action, or remedies that may be brought by or on behalf of the Seller Parties or other authorized parties in interest under the Bankruptcy Code or applicable non-bankruptcy law, including claims, Causes of Action, or remedies arising under chapter 5 of the Bankruptcy Code or under similar or related local, state, federal, or foreign statutes or common law, including fraudulent transfer laws.

"Back-up Termination Date" means the first to occur of (a) consummation of the transaction with the winning bidder at the Auction, (b) Buyer's receipt of notice from Seller Parent of the release by Seller Parent of Buyer's obligations under Section 8.04, and (c) the one (1) year anniversary of the Agreement Date.

"Bankruptcy and Equity Exception" means the effect on enforceability of (a) any applicable Law relating to bankruptcy, reorganization, insolvency, moratorium, fraudulent conveyance or preferential transfers, or similar Law relating to or affecting creditors' rights generally and (b) general principles of equity (regardless of whether enforceability is considered in a proceeding in equity or at law).

“Bid Deadline” means the date upon which Competing Bids are due from third parties (other than Buyer) as set forth in the Bidding Procedures Order or as otherwise established or modified by the Bankruptcy Court.

“Bidding Procedures Motion” means the motion or motions of Seller Parent seeking approval and entry of the Bidding Procedures Order.

“Bidding Procedures Order” means that certain order of the Bankruptcy Court, and any amendment thereto, in form and substance reasonably acceptable to Buyer and Seller Parent, that among other things, establishes the bidding procedures with respect to the proposed sale of the Transferred Assets, establishes the date by which Competing Bids are due, and approves the Termination Payment.

“BTOP” means Broadband Technology Opportunities Program.

“BTOP Applications” means any application, notification, notice, or other filing necessary to obtain the consent of the NTIA/NOAA to the assignment of the BTOP Grants contemplated under this Agreement.

“BTOP Grants” means (a) U.S. Department of Commerce Financial Assistance Award Number NT10BIX5570067 made to OneCommunity for the July 1, 2010 through June 30, 2013 award period for the BTOP Transforming NE Ohio Project, with NTIA/NOAA consent, dated November 27, 2015, to assign and transfer title of certain assets from OneCommunity to Everstream Solutions LLC; (b) U.S. Department of Commerce Financial Assistance Award Number NT10BIX5570009 made to Merit Network Inc. for the January 1, 2010 through December 31, 2012 award period for the BTOP REACH Michigan Middle Mile Collaborative Project, with Lynx Fiber One, LLC as a subrecipient; and (c) U.S. Department of Commerce Financial Assistance Award Number NT10BIX5570114 made to Merit Network Inc. for the August 1, 2010 through July 31, 2013 award period for the BTOP REACH-3MC II Project, with Lynx Fiber Two, LLC as a subrecipient and NTIA/NOAA consent, dated November 9, 2017, to assign and transfer title of certain assets from Merit Network, Inc. to Everstream GLC Holding Company LLC.

“Budgeted Capex” means the aggregate amount of the Non-Success Based Capex set forth on the Agreed Financial Budget with respect to the Capex Measurement Period.

“Budgeted Capex Shortfall” means an amount (which shall not be a negative number) equal to (a) Budgeted Capex minus (b) Actual Budgeted Capex. For the avoidance of doubt, if Actual Budgeted Capex exceeds Budgeted Capex, the “Budgeted Capex Shortfall” shall be deemed to be \$0.

“Business” means collectively, the business conducted by the Seller Parties of developing, marketing, and providing bandwidth infrastructure and managed services, operating underground and aerial fiber networks or selling bandwidth infrastructure and related products, including Ethernet transport, fiber-distributed cellular backhaul, wavelengths and dedicated internet access or voice and other voice managed services, in each case to business, carrier, government, and other non-residential customers, other than the Excluded Business. For the avoidance of doubt, Business shall include the Seller Parties’ operations in Illinois except for the IL Divested Business.

“Business Day” means any day that is not a Saturday, a Sunday or other day on which commercial banks in New York City, New York are required or authorized by Law to be closed.

“Business Intellectual Property” means all (a) Business Registered IP, (b) Intellectual Property included in Business Technology, and (c) other Intellectual Property owned or purported to be owned by any Seller Party.

“Business Registered IP” means all patents, patent applications, Trademark registrations, applications for Trademark and service mark registration, copyright registrations, Internet domain names and other forms of registered Intellectual Property and applications therefor, in each case, to the extent owned by or registered in the name of any Seller Party including those set forth on Section 2.01(a)(vii).

“Business Systems” means all Systems owned, leased, licensed, used, or held for use by or for by any Seller Party, whether or not outsourced.

“Business Technology” means all Technology to the extent owned or purported to be owned by any Seller Party.

“Buyer Parent Specified Persons” means Buyer Parent and its Subsidiaries, including Buyer.

“Buyer Transaction Agreements” means this Agreement and each other Transaction Agreement to which Buyer is named as a party on the signature pages thereto.

“Buyer Transactions” means the transactions contemplated by the Buyer Transaction Agreements.

“Capex Measurement Period” means the period beginning on the first day of the first (1st) month beginning after the Agreement Date, and ending on the last day of the last month ended prior to the Measurement Date.

“Capital Expenditure” means an expenditure capitalized in accordance with GAAP made by Seller Parties to unaffiliated third parties for capital projects, solely to the extent directly related to the Business. For the avoidance of doubt, any expenditure shall not be a “Capital Expenditure” (a) to the extent related to the Excluded Business or (b) is capitalized labor, as determined in accordance with GAAP.

“Cash” means, as of the Effective Time (a) all cash and cash equivalents, including restricted cash, checks, commercial paper, treasury bills, certificates of deposit, Deposits, securities, securities entitlements, instruments and other investments and (b) all bank accounts and securities accounts, calculated in accordance with GAAP and the Seller Parties’ books and records.

“Causes of Action” means any and all claims, interests, controversies, actions, proceedings, reimbursement claims, contribution claims, recoupment rights, debts, third-party claims, indemnity claims, damages, remedies, causes of action, demands, rights, suits, obligations, liabilities, accounts, judgments, defenses, offsets, powers, privileges, licenses, Liens, guarantees,

franchises, Avoidance Actions, counterclaims and cross-claims, of any kind or character whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, asserted or unasserted, direct or indirect, assertable directly or derivatively, choate or inchoate, reduced to judgment or otherwise, secured or unsecured, whether arising before, on, or after the Petition Date, in contract, tort, law, equity, or otherwise pursuant to any theory of law, in all cases other than those arising in connection with the enforcement of this Agreement or any of the Transaction Agreements. Causes of Action also include: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law or in equity; (b) the right to object to or otherwise contest claims or interests; (c) claims pursuant to section 362 of the Bankruptcy Code; and (d) such claims and defenses as fraud, mistake, duress, usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

“**CFIUS**” means the Committee on Foreign Investment in the United States and each member agency thereof, acting in such capacity.

“**CFIUS Approval**” means that (a) CFIUS has issued a written notice to the Parties that it has concluded all action pursuant to the DPA and has determined that there are no unresolved national security concerns with respect to the Transactions; (b) CFIUS has sent a report to the President of the United States (the “President”) requesting the President’s decision with respect to the Transactions and either (i) the President has announced a decision not to take any action to suspend or prohibit the Transactions or (i) the President has not taken any action within fifteen (15) days from the date the President received the report from CFIUS; or (iii) CFIUS has issued a written notice that the notified transaction is not a “covered transaction” within the meaning of the DPA.

“**Change**” has the meaning set forth in the definition of “Material Adverse Effect”.

“**Closing Conditions**” means the conditions to the respective obligations of the Parties to consummate the Transactions, in each case, as set forth in Article X.

“**COBRA**” means Part 6 of Subtitle B of Title 1 of ERISA, Section 4980B of the Code and similar state Laws.

“**Code**” means the U.S. Internal Revenue Code of 1986, as amended.

“**Communications Laws**” means (a) the Communications Act of 1934, as amended, and the rules, regulations, published orders and published and promulgated policy statements of the FCC thereunder, as in effect from time to time, and (b) applicable state laws regulating telecommunications carriers and the rules, regulations, published orders and published and promulgated policy statements of the state regulatory agency thereunder, as in effect from time to time.

“**Communications Permits**” means any Permit issued or required by the FCC or a State PUC under the Communications Laws.

“Confidentiality Agreements” means (a) the Confidentiality Agreement, dated as of September 11, 2024, by and between Bluebird Network, LLC and Midwest Fiber Holdings LP, as the same may be amended, supplemented, or otherwise from time to time in accordance with its terms, and (b) the Clean Team Agreement, dated as of September 11, 2024, by and between Bluebird Network, LLC, a Delaware limited liability company and indirect parent of Buyer and Midwest Fiber Holdings LP, as the same may be amended, supplemented, or otherwise modified from time to time in accordance with its terms.

“Consent” means any consent, approval, or authorization.

“Contract” means any written contract, agreement, undertaking, indenture, note, bond, mortgage, lease, sublease, license, sublicense, sales order, purchase order or other instrument or commitment that purports to be binding on any Person or any part of its assets or property (or subjects any such assets or property to a Lien).

“Control” means, with respect to any Person, the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by Contract or otherwise. The terms “Controlled by,” “Controlled,” “under common Control with” and “Controlling” shall have correlative meanings.

“Covered Employee” means the employees of Seller Party or any of its Subsidiaries who work for or provide services to the Business as set forth on Schedule 1.01(b) and any other individuals who are hired by Seller Party or one of its Subsidiaries to provide services to the Business in accordance with Section 6.01(b)(ix).

“Cure Costs” means cure costs required to be paid pursuant to section 365 of the Bankruptcy Code to effectuate the assumption by the applicable Seller Party and the assignment to Buyer, of the Transferred Contracts to which such Seller Party is party, as determined by the Bankruptcy Court or agreed to by Seller Parent and the non-Seller Parent counterparty to the applicable Transferred Contract.

“D&O Avoidance Actions” means all Avoidance Actions assertable against current or former directors, managers, or officers of the Seller Parties.

“Debt” means, without duplication, all obligations (including accrued interest related thereto) (a) for borrowed money, (b) evidenced by notes, bonds, debentures, mortgages, or similar instruments (but excluding, for the avoidance of doubt, obligations in respect of surety or performance bonds, letters of credit or similar instruments to the extent the same do not constitute Debt under clause (h) below), (c) under any leases required to be recorded as “finance leases” under GAAP, in each case, calculated in accordance with GAAP, (d) constituting the maximum amount payable for any deferred or unpaid purchase price of property or services, including any earnout payments, seller notes, installment or similar payments, whether or not contingent and whether then-due and owing, including royalties and similar payments or obligations, (e) created or arising under any conditional sale or other title retention agreement with respect to property acquired by such Person (even if the rights and remedies of the seller or lender under such agreement in the event of default are limited to repossession or sale of such property), (f) constituting the liquidation value of all redeemable preferred equity interests of such Person, (g)

of such Person in respect of swap, derivative or other hedging contracts (valued at the net terminal value thereof), (h) in respect of surety or performance bonds, letters of credit and similar instruments, in each case solely to the extent called or drawn, as applicable, (i) with respect to, or attributable to, any time period ending prior to the Closing Date, for unpaid contributions to any defined contribution, defined benefit pension plan or multiemployer plan and for incurred or outstanding withdrawal liability with respect to any multiemployer plan, in each case to the extent such plans are Employee Plans that are not Assumed Employee Plans, (j) constituting accrued, but unpaid bonuses with respect to any time period ending prior to the Closing Date, to employees or other service providers of the Seller Parties, which for the avoidance of doubt, does not include the Pro Rata Annual Bonus Amount, (k) with respect to guarantees of obligations of the types described in clauses (a) through (j) above of any other Person or as to which such Person has an obligation substantially the economic equivalent of a guaranty and (l) constituting any accrued and unpaid interest owing by such Person with respect to any indebtedness of the type described in clauses (a), (b), (c), (f), (g) and (h) for the principal amount, breakage fees and other payment obligations (including any prepayment premiums, fees, penalties or make-whole or similar payments in respect of any obligations of the type that would be paid if such obligations are retired at the Closing).

“Debt Financing Source Provisions” means Section 12.08, Section 12.09, Section 12.12, Section 12.14, Section 12.16 and Section 12.18(b) of this Agreement.

“Debt Financing Sources” means the parties arranging, providing or otherwise making available to Buyer the Debt Financing or any other debt financing (including any Alternative Financing), in each case, for the Transactions, together with their Affiliates, officers, directors, general or limited partners, shareholders, member, controlling persons, employees, agents, advisors, and representatives and their respective successors and permitted assigns.

“Deposits” means all deposits (including customer deposits and security deposits for rent, electricity, telephone or otherwise and adequate assurance deposits posted in accordance with section 366 of the Bankruptcy Code) and prepaid or deferred charges and expenses (including all lease and rental payments).

“DIP Credit Agreement” means that certain Senior Secured Super-Priority Priming Term Loan Debtor In Possession Credit Agreement by and among Midwest Fiber Acquisition LLC, each of the direct and indirect subsidiaries of Midwest Fiber Acquisition LLC and Midwest Fiber Acquisition Midco 1 LLC, as subsidiary guarantors, each of Midwest Fiber Acquisition Topco LLC and Seller Parent, as Holdco guarantors, Société Générale, as administrative agent and as collateral agent, and the DIP Lenders.

“DIP Lender” has the meaning set forth in the DIP Credit Agreement.

“Disclosure Schedules” means the disclosure schedules dated as of the Agreement Date delivered by Seller Parent to Buyer, which form a part of this Agreement.

“Disputed Item Percentage” means, with respect to any unresolved Disputed Item, its Net Disputed Item Amount divided by the applicable Greater Disputed Item Amount.

“**DPA**” means Section 721 of the Defense Production Act of 1950, as amended (50 U.S.C. § 4565), and all rules and regulations thereunder, including those codified at 31 C.F.R. Part 800.

“**Effective Time**” means 12:01 a.m. (local time) on the Closing Date.

“**Employee Plans**” means (a) each employee benefit plan (within the meaning of Section 3(3) of ERISA, whether or not subject thereto), (b) any other severance, separation pay, salary continuation, bonus, commission, employment, individual consulting, service, incentive, equity option, or other equity or equity-based, profit sharing, change in control, transaction, retention, retirement, pension, deferred compensation, health, welfare, post-employment welfare, vacation, paid time off or other fringe benefit plan, program, or arrangement, and (c) any other benefit or compensation plan, program, policy, agreement or arrangement, in each case, (i) that any of the Seller Parties sponsors, maintains, contributes to or is required to contribute to for the benefit of the Covered Employees or Former Covered Employees, or (ii) under or with respect to which any of the Seller Parties has any Liability (contingent or otherwise), in each case, other than any plans, programs, policies, agreements or arrangements sponsored or maintained by a Government Authority.

“**Environmental Law**” means any Law relating to health or safety (regarding exposure to Hazardous Materials), pollution or protection of the environment.

“**Environmental Permit**” means any Permit that is issued or required by a Government Authority under any Environmental Law.

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

“**Escrow Agreement**” means the Escrow Agreement, dated as of the Agreement Date, entered into by and among the Escrow Agent, Buyer and Seller Parent.

“**Ex-Im Laws**” means all applicable Laws, rules and regulations relating to export, re-export, transfer or import controls (including the Export Administration Regulations administered by the U.S. Department of Commerce, and customs and import Laws administered by U.S. Customs and Border Protection).

“**Excluded Business**” means (a) the PA Business, (b) the MO Divested Business, and (c) the IL Divested Business.

“**Executory Contract**” means any executory Contract (including (x) any unexpired leases and (y) shared contracts that are not Shared Customer Contracts) to which any Seller Party is a party and which is related to the Business (other than, for the avoidance of doubt, any Shared Customer Contracts, and any Contracts that are IL Divested Business Assets or MO Divested Business Assets).

“**Exhibits**” means the exhibits to this Agreement (as may be amended from time to time in accordance herewith) which form a part of this Agreement.

“Expense Reimbursement Agreement” means that certain letter agreement, dated as of February 12, 2025, by and between MIP IV Midwest Fiber Parent LLC and Seller Parent, as amended by that Amendment No. 1 to Reimbursement Letter Agreement, dated as of March 5, 2025, by and between MIP IV Midwest Fiber Parent LLC and Seller Parent.

“FCC” means Federal Communications Commission, any bureau or division thereof acting on delegated authority or any successor agency thereto.

“FCC Applications” means any application, notification, notice, or other filing necessary to obtain the consent of the FCC to the asset assignment transactions contemplated under this Agreement.

“FCC Approval” means the consent of the FCC to the FCC Applications.

“FCC Deemed Affiliate” means a Person that (directly or indirectly) owns or controls, is owned or controlled by, or is under common ownership or control with, another Person where “own or control” means having or controlling a direct or indirect equity or voting interest (or equivalent thereof) of 10% or more.

“Former Covered Employees” means any former employee of any Seller Party or any of its Subsidiaries whose services immediately prior to his or her termination of employment are primarily related to the Business.

“Fraud” means actual common law fraud under Delaware Law with respect to the making of the representations and warranties by a Party contained in Article IV (with respect to Seller Parent) or Article V (with respect to Buyer) of this Agreement, in a certificate delivered pursuant to Section 9.03 or Section 9.02, as applicable. For the avoidance of doubt, “Fraud” does not include any claim for equitable fraud, promissory fraud, unfair dealings fraud, or any torts (including a claim for fraud) based on negligence or recklessness.

“Funding Willful Breach” means the failure of Buyer to complete the Closing within two (2) Business Days after the date on which the Closing is required to have occurred pursuant to Section 2.03 if (i) all conditions in Section 10.02 (other than those conditions that by their terms are to be satisfied at the Closing) have been and continue to be satisfied or waived and (ii) Seller Parent has irrevocably notified Buyer in writing that (A) all of the conditions set forth in Section 10.01 (other than those conditions that by their terms are to be satisfied at the Closing) have been and continue to be satisfied or waived by Seller Parent and (B) Seller Parent is ready, willing and able to consummate the Closing.

“Funding Willful Breach Cap” means \$42,750,000.

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

“Government Authority” means any U.S. federal, state or local or any supra-national or non-U.S. government, political subdivision, governmental, regulatory or administrative authority, instrumentality, agency, body, board, bureau or commission, regulatory or self-

regulatory organization or any court, tribunal (whether public or private), or judicial or public or private arbitral body.

“Government Contract” means any Contract for the sale of supplies or services currently in performance or that has not been closed that is between any Seller Party on one hand and a Government Authority on the other or entered into by a Seller Party as a subcontractor at any tier in connection with a contract between another Person and a Government Authority.

“Greater Disputed Item Amount” means, with respect to any Disputed Item, the greater of (x) Seller Parent’s calculation of such Disputed Item in the Estimated Closing Statement and (y) Buyer’s calculation of such Disputed Item in the Notice of Disagreement.

“Hazardous Materials” means (a) any substance, material or waste that is defined or regulated as “hazardous,” “toxic,” “radioactive,” a “pollutant,” a “contaminant” or words of similar meaning and regulatory effect under any Environmental Law; and (b) any petroleum or petroleum-derived products, radon, radioactive materials or wastes, asbestos in any form, lead or lead-containing materials, urea formaldehyde foam insulation, greenhouse gases, per- and polyfluoroalkyl substances, and polychlorinated biphenyls.

“HSR Act” means the Hart-Scott-Rodino Antitrust Improvements Act of 1976.

“IL Divested Business” means the business of the Seller Parties of (a) providing bandwidth infrastructure services to carrier and enterprise customers, (b) operating underground and aerial fiber networks, and (c) selling bandwidth infrastructure and related products, including Ethernet transport, fiber-distributed cellular backhaul, wavelengths and dedicated internet access, in each case, in the Illinois counties of Boone, Cook, DeKalb, DuPage, Kane, Kendall, Lake, McHenry, Ogle, Will and Winnebago, and the Wisconsin county of Rock (other than any business conducted using the Retained Business Assets (as such term is defined in the IL Divestiture APA)).

“IL Divested Business Assets” means the “Transferred Assets” (as defined in the IL Divestiture APA).

“IL Divested Business Liabilities” means the “Assumed Liabilities” as defined in the IL Divestiture APA.

“IL Divestiture APA” means that certain Asset Purchase Agreement, dated as of April 11, 2025, by and between Seller Parent and Buyer (each as defined therein) (as may be amended, supplemented, or otherwise modified from time to time).

“Insider” means (a) an Affiliate of any Seller Party (other than the Seller Parties), or (b) any current or former officer, director, manager, or executive or senior manager level employee of any Seller Party.

“Insurance Policies” means, collectively, all policies and programs of or agreements for insurance and interests in insurance pools and programs of the Seller Parties (in each case including self-insurance and insurance from Affiliates) (other than any Employee Plans), including, for the avoidance of doubt, all current and prior director and officer insurance policies.

“Intellectual Property” means all: (a) patents and patent applications, including reissues, renewals, divisions, continuations, continuations-in-part, extensions and reexaminations; (b) copyrights (registered or unregistered), moral rights, mask work rights, database rights and design rights, including all applications, registrations, extensions, renewals and reversions of the foregoing; (c) Trademarks; (d) trade secrets and other confidential, proprietary or sensitive technical, business and other information, and all rights therein and thereto, plans, proposals, technical data, copyrightable technical data, and financial, marketing and business data; (e) Internet domain names; (f) rights in or to Software, data, databases, collections of data, and Technology; and (g) all other intellectual property rights or similar or equivalent rights arising under the Laws of any jurisdiction throughout the world.

“Intercompany” means accounts between a Seller Party, on the one hand, and another Seller Party or one of its Affiliates, on the other hand.

“IRS” means the U.S. Internal Revenue Service.

“IRU Agreements” means those certain indefeasible rights of use agreements pursuant to which a Seller Party has a right to use certain IRUs.

“IRUs” means (a) those certain indefeasible rights of use granted pursuant to the IRU Agreements to certain fiber optic lines and other cables, and (b) such fiber optic lines and other cables to which such indefeasible rights of use relate.

“Joint Written Instructions” means written instructions from Seller Parent and Buyer, a form of which is attached to the Escrow Agreement as an exhibit thereto, directing the Escrow Agent to deliver either the Adjustment Escrow Amount or Deposit Escrowed Funds as provided for under this Agreement.

“Knowledge of Seller Parent” means the actual knowledge as of the Agreement Date of the Persons listed on Schedule 1.01(c).

“Law” means any U.S. federal, state, local, provincial, municipal or non-U.S. statute, law, statute, legislation, constitution, resolution, edict, treaty, convention, ruling, decision, ordinance, regulation, rule, code, Order, act, or other requirement or rule of law (including common law) issued, enacted, adopted, promulgated, implemented or otherwise put into effect by or under the authority of a Government Authority.

“LC Issuer” means a major U.S. commercial bank or the U.S. branch of a foreign bank.

“Lesser Item Amount” means, with respect to any Disputed Item, the lesser of (x) Seller Parent’s calculation of such Disputed Item in the Estimated Closing Statement and (y) Buyer’s calculation of such Disputed Item in the Notice of Disagreement.

“Letters of Credit” means the irrevocable, standby letters of credit, each issued by an LC Issuer and attached hereto as Exhibit H, *provided* that each such Letter of Credit shall be maintained in accordance with the provisions of Section 3.02.

“Letter of Credit Amount” means \$25,650,000.

“Liabilities” means any liability, Debt, guarantee, claim, demand, expense, commitment or obligation (whether direct or indirect, absolute or contingent, accrued or unaccrued, liquidated or unliquidated, or due or to become due) of every kind and description, including all costs and expenses related thereto.

“Lien” means, with respect to any property or asset, any mortgage, deed of trust, pledge, hypothecation, security interest, encumbrance, claim (as defined in Section 101(5) of the Bankruptcy Code), lien (as defined in Section 101(37) of the Bankruptcy Code), licenses, hypothecations easements, rights of way, encroachments, Orders, conditional sale or other title retention agreements and other similar impositions, imperfections or defects of title, or any option, lease or any other similar encumbrance in respect of such property or asset, or any other charge of any kind.

“Lookback Date” means the date that is three (3) years prior to the Agreement Date.

“Material Adverse Effect” means any fact, event, change, effect, development, circumstance, or occurrence (each, a **“Change”**) that, individually or in the aggregate, has had or would reasonably be expected to (i) have a material adverse effect on the business, operations, properties, assets or financial condition of the Business or (ii) materially impair or delay the ability of the Seller Parties to perform their respective obligations under this Agreement and the other Transaction Agreements and to consummate the Transactions; *provided* that, in the case of clause (i) only, none of the following, either alone or in combination, will constitute a Material Adverse Effect: (a) any Change in the United States or foreign economies or securities or financial markets in general (including any decline in the price of securities generally or any market or index); (b) any Change that generally affects any industry in which the Business operates; (c) general business or economic conditions in any of the geographical areas in which any of the Seller Parties or the Business operates; (d) national or international political or social conditions, including any Change arising in connection with hostilities, acts of war, sabotage or terrorism or military action or any escalation or material worsening of any such hostilities, acts of war, sabotage or terrorism or military action, whether commenced before or after the Agreement Date and whether or not pursuant to the declaration of a national emergency or war; (e) the occurrence of any act of God or other calamity or force majeure event (whether or not declared as such), including any strike, labor dispute, civil disturbance, embargo, natural disaster, fire, flood, hurricane, tornado, or other weather event or any global health conditions (including any epidemic, pandemic or other outbreak of illness, disease or virus (or, in each case any variation or mutation thereof) or any action by any Government Authority related to the foregoing); (f) any actions taken by Buyer or its Affiliates or specifically required to be taken or omitted to be taken by any Seller Party pursuant to this Agreement or any other Transaction Agreement, or actions taken or omitted to be taken by any Seller Party at the express written request or with the express prior written consent of Buyer (in each case, other than the obligation of Seller Parent to cause its Subsidiaries to conduct the Business in the Ordinary Course of Business set forth in Section 6.01); (g) any Changes in applicable Laws or GAAP (or other relevant accounting rules); (h) any Change resulting from the filing or pendency of the Bankruptcy Cases; (i) any Change resulting from the public announcement of the entry into this Agreement, compliance with terms of this Agreement or the

consummation of the Transactions; (j) any effects or Changes arising from or related to the breach of this Agreement by Buyer; or (k) failure of any Seller Party to meet any internal or published projections, forecasts, estimates or predictions (*provided* that this clause (k) shall not prevent a determination that any Change underlying such failure has resulted in a Material Adverse Effect, unless such Change is otherwise excepted by this definition); *provided further*, that a Change resulting from clauses (a) through (e) of this definition shall be taken into account in determining whether Material Adverse Effect has occurred or would reasonably be expected to occur to the extent that any such described Change has a disproportionately effect on the Business or the Seller Parties, as compared to other companies in the industries in which the Business or the Seller Parties operate.

“MO Divested Business” means the business of the Seller Parties of providing bandwidth infrastructure and managed services, operating underground and aerial fiber networks or selling bandwidth infrastructure and related products, including Ethernet transport, fiber-distributed cellular backhaul, wavelengths and dedicated internet access, in each case (a) to business, carrier, government and other non-residential customers and (b) delivered or serviced across the City of St. Louis, Missouri; the Missouri counties of Franklin, Jefferson, St. Charles, St. Louis and Warren; and the Illinois counties of Clay, Clinton, Coles, Cumberland, Effingham, Fayette, Jersey, Macoupin, Madison, Marion, Monroe Shelby, and St. Clair.

“MO Divested Business Assets” means the “Transferred Assets” as defined in the MO Divestiture APA.

“MO Divested Business Liabilities” means the “Assumed Liabilities” as defined in the MO Divestiture APA.

“MO Divestiture APA” means that certain Asset Purchase Agreement, dated as of July 15, 2024, by and among the Seller Parties and Buyer (each as defined therein) (as may be amended, supplemented, or otherwise modified from time to time).

“Net Disputed Item Amount” means, with respect to a Disputed Item, its Greater Disputed Item Amount minus its Lower Disputed Item Amount.

“NOAA” means National Oceanic and Atmospheric Administration.

“Non-Recurring Revenue” means non-recurring revenue or one-time charges, as determined in accordance with GAAP.

“Non-Success Based Capex” means Capital Expenditures that are not otherwise related to provisioning of services for new customers of the Business. For the avoidance of doubt, Non-Success Based Capex shall include any Capital Expenditures relating to or arising out of maintenance, and general capacity upgrades.

“NTIA” means National Telecommunications and Information Administration.

“NTIA/NOAA Approval” means the consent of the NTIA/NOAA of the assignment of the BTOP Grants contemplated under this Agreement.

“Order” means any order, writ, judgment, injunction, temporary restraining order, decree, stipulation, determination or award entered by or with any Government Authority.

“Ordinary Course of Business” means the ordinary and usual course of normal day to day operations of the Business consistent with past practice as conducted by the Seller Parties the Balance Sheet Date, taking into account reasonably necessary actions arising from the commencement and pendency of the Bankruptcy Cases.

“Organizational Documents” means (a) with respect to a corporation, the charter, articles or certificate of incorporation, as applicable, and bylaws thereof, (b) with respect to a limited liability company, the certificate of formation or organization, as applicable, and the operating or limited liability company agreement thereof, (c) with respect to a partnership, the certificate of formation and the partnership agreement thereof, and (d) with respect to any other Person, the organizational, constituent or governing documents or instruments of such Person.

“Other Sources” means cash on hand at Buyer and any other financing source immediately available to Buyer on the Closing Date (including any Debt Financing).

“PA Business” means, collectively, the business of the Seller Parties of providing bandwidth infrastructure and managed services, operating underground and aerial fiber networks or selling bandwidth infrastructure and related products, including Ethernet transport, fiber-distributed cellular backhaul, wavelengths and dedicated internet access or voice and other voice managed services, in each case (a) to business, carrier, government and other non-residential customers and (b) delivered or serviced in the Commonwealth of Pennsylvania, the State of New Jersey, the State of New York, the State of Delaware, the State of Maryland, or the State of West Virginia.

“Permits” means all permits, licenses, authorizations, clearances, closures, decisions, registrations, concessions, grants, franchises, certificates, waivers and filings issued or required by any Government Authority under applicable Law, in each case, required or necessary for the ownership or operation of the Business as is conducted as of the Agreement Date.

“Permitted Liens” means the following Liens: (a) Liens for Taxes, assessments or other governmental charges or levies that are not yet due or payable or that are being contested in good faith by appropriate proceedings and for which appropriate reserves have been established in accordance with GAAP; (b) statutory Liens of landlords, carriers, warehousemen, mechanics, materialmen, workmen, repairmen and other similar providers in the Ordinary Course of Business and for which appropriate reserves have been established in accordance with GAAP, for amounts that are not yet due or payable or that are being contested in good faith by appropriate proceedings; (c) defects or imperfections of title, exceptions, easements, covenants, rights-of-way, restrictions and other similar charges, defects or encumbrances, in each case, that do not, individually or in the aggregate, adversely affect the operation of the Transferred Assets and, in the case of the Transferred Owned Real Property or Transferred Leased Real Property, that do not, individually or in the aggregate, materially adversely affect the use or occupancy of such Transferred Owned Real Property or Transferred Leased Real Property; (d) zoning, entitlement, building and other generally applicable land use and environmental restrictions by a Government Authority in each case that are not violated by the current use of occupancy of any Transferred Real Property;

(e) Liens not created by any Seller Party that affect the underlying fee, lessor, licensor or sublessor interest of any Transferred Leased Real Property or real property over which any Seller Party (with respect to the Business) have easement or other property rights; (f) Liens created by Buyer or its Affiliates; (g) any set of facts an accurate up-to-date survey of the applicable real property would show; (h) any title matters shown in any title policy or report made available to Buyer; (i) right, terms or conditions of any Transferred Lease, leases, subleases, licenses, sublicenses or occupancy agreements made available to Buyer, including title of a lessor under a capital or operating lease; (j) in the case of Intellectual Property, non-exclusive licenses, options to license on a non-exclusive basis, non-exclusive covenants not to sue or other non-exclusive grants of rights and gaps in the chain of title evident from the publicly-available records of the applicable Government Authority maintaining such records; (k) Liens granted by any Seller Party to the National Telecommunications & Information Administration, BTOP, U.S. Department of Commerce on property and equipment acquired or improved under the BTOP Grants which such Liens are set forth on Schedule 1.01(e) Part I; (l) Liens set forth on Schedule 1.01(e) Part II; and (m) solely prior to the Closing, any other Lien that will be cleared or discharged by the Bankruptcy Court, in each case, except as otherwise set forth in this definition, solely to the extent in existence as of the Agreement Date.

“Person” means any natural person, general or limited partnership, corporation, company, trust, limited liability company, limited liability partnership, firm, association, Government Authority, organization or other legal entity.

“Personal Data” means, in addition to any data or information that comes within the definition of “personal data” or any similar term (*e.g.*, “personal information” or “personally identifiable information” or “PII”) under applicable Law, any data or information that identifies or could reasonably be used to identify, directly or indirectly, a particular individual person.

“Petition Date” means the date on which the Seller Parties commence the Bankruptcy Cases.

“Pre-Closing Period” means the period beginning on the Agreement Date and ending on the earlier of the Closing and the date this Agreement is validly terminated in accordance with its terms.

“Privacy Laws” means all applicable Laws, legal requirements, industry standards, rules, policies, and procedures to which any Seller Party is bound or otherwise holds itself out as compliant with, and self-regulatory guidelines relating to the Processing of any Personal Data.

“Processing” or “Processed” means any operation or set of operations performed on any data, whether or not by automated means, including but not limited to receipt, collection, compilation, use, storage, combination, sharing, safeguarding, disposal, erasure, destruction, disclosure or transfer.

“Representative” of a Person means the directors, officers, employees, advisors, agents, consultants, attorneys, accountants, financial advisors or other representatives of such Person.

“**Sale Order**” means an order or orders of the Bankruptcy Court, in form and substance acceptable to Buyer, approving, among other things, the sale of the Transferred Assets to Buyer on the terms and conditions set forth herein pursuant to sections 363 and 365 of the Bankruptcy Code, and approving and authorizing Seller Parent and Seller Parties to consummate the Transactions.

“**Sanctioned Person**” means any Person who is the target of Sanctions, including by virtue of being (a) listed on any Sanctions-related list of designated or blocked persons; (b) a Government Authority of, resident in, or organized under the Laws of a country or territory that is the target of comprehensive Sanctions (as of the date of this Agreement, Cuba, Iran, North Korea, Syria, and the Crimea region and so-called Donetsk People’s Republic and Luhansk People’s Republic in Ukraine); or (c) 50% or more owned or controlled by any of the foregoing.

“**Sanctions**” means trade, economic and financial sanctions Laws, regulations, embargoes, and restrictive measures, including those administered, enacted or enforced by (a) the United States (including the Department of Treasury, Office of Foreign Assets Control), (b) the European Union and enforced by its member states, (c) the United Nations or (d) His Majesty’s Treasury.

“**Securities Act**” means the Securities Act of 1933.

“**Seller Guarantees**” means, collectively, all letters of credit, guarantees, surety bonds, performance bonds and other financial assurance obligations issued or entered into by or on behalf of (or for the account of) Seller Parent or any of its Affiliates in connection with the Business as set forth in Schedule 6.09.

“**Seller Parent Fundamental Representations**” means the representations and warranties set forth in Section 4.01, Section 4.03 and Section 4.16.

“**Seller Transaction Agreements**” means this Agreement and each other Transaction Agreement to which any Seller Party is a party thereto.

“**Seller Transaction Expenses**” means the fees, costs and expenses (including any advisors, experts, consultants and legal, accounting and financial advisory expenses) incurred or owed by any Seller Party in connection with or related to the authorization, preparation, negotiation, execution and performance of this Agreement or any Seller Transaction Agreement or the Transaction or the Seller Transactions or the sale process relating to the potential sale of the Business.

“**Seller Transactions**” means the transactions contemplated by the Seller Transaction Agreements.

“**Shared Customer Contract**” means the executory Contracts set forth on Schedule 6.10; *provided, however*, that the Seller Parties shall be permitted to deliver one or more updates to Schedule 6.10 prior to the Designation Deadline.

“**Software**” means computer programs, operating systems, applications, firmware and other code, including all source code, object code, application programming interfaces, protocols, and specifications.

“**Specified Reverse Termination Amount**” means an amount equal to \$28,500,000.

“**State PUC**” means any state public service commission, public utilities commission, utilities board or similar state agency responsible for regulating the communications industry within a particular state having regulatory authority over communications services or the ownership or operation of communications facilities or networks.

“**Straddle Period**” means any taxable period beginning on or before the Closing Date and ending after the Closing Date.

“**Subsidiary**” of any specified Person means any other Person of which such first Person owns (either directly or through one or more other Subsidiaries) a majority of the outstanding equity securities or securities carrying a majority of the voting power in the election of the board of directors or other governing body of such Person, and with respect to which entity such first Person is not otherwise prohibited contractually or by other legally binding authority from exercising Control.

“**Supplemental Financial Statements**” means the unaudited consolidated balance sheet and related statements of income and cash flows of Seller Parent for each fiscal quarter ending after the Balance Sheet Date and at least (a) forty-five (45) days prior to the Closing Date, with respect to each of the first three fiscal quarters of a fiscal year of Seller Parent and (b) sixty (60) days prior to the Closing Date, with respect to the last fiscal quarter of a fiscal year of Seller Parent.

“**Systems**” means all information technology, infrastructure, systems, servers, databases, Software, firmware, computer hardware, networks, websites, servers, peripherals and all telecommunications and network assets and equipment and other similar or related items of automated, computerized, and/or software systems, infrastructure, and assets or equipment.

“**Tax**” or “**Taxes**” means (a) all federal, state, local, foreign and other taxes, customs, duties, charges, fees, levies, penalties or other assessments, fees, unclaimed property and escheat payments, and other governmental charges imposed by any Government Authority, including any income, excise, gross receipts, ad valorem, value-added (including VAT), sales, use, production, employment, unemployment, severance, franchise, profits, registration, license, lease, service, service use, environmental, recording, documentary, telecommunications, filing, permit or authorization, stamp, business and occupation, gains, property, leasing, transfer, payroll, intangibles or other taxes, together with any interest and any penalties, additions to tax or additional amounts imposed by any Taxing Authority with respect thereto and (b) any liability in respect of the foregoing as a result of any obligation to indemnify any other Person, by operation of Law, as transferee or successor, by contract or otherwise.

“Tax Returns” means all returns and reports (including elections, declarations, disclaimers, notices, disclosures, schedules, estimates, claims (including claims for refunds) and information returns) supplied or required to be supplied to a Taxing Authority relating to Taxes.

“Taxing Authority” means any federal, state, local, or foreign jurisdiction (including any subdivision and any revenue agency of a jurisdiction) imposing Taxes and the agencies, if any, charged with the collection of such Taxes for such jurisdiction.

“Technology” means all technology, Software, designs, procedures, models, discoveries, processes, techniques, methods, ideas, know-how, research and development, tools, specifications, inventions (whether patentable or unpatentable and whether or not reduced to practice), apparatus, creations, improvements, works of authorship, and other similar materials, and all recordings, graphs, drawings, reports, analyses, and other writings.

“Trademarks” means all trademarks, service marks, trade names, corporate names, trade dress, logos, brand names and other indicators of source or origin (including “look and feel”), including all applications, registrations, extensions and renewals of the foregoing and all goodwill associated with the foregoing.

“Transaction Agreements” means this Agreement, the TSA, the Bill of Sale, Assignment and Assumption Agreement, the Deeds, the Transferred Leased Property Assignment and Assumption Agreement, the IP Assignment Agreement, the Escrow Agreement, the Letters of Credit and any other agreements, instruments or documents required to be delivered at the Closing, in each case including all exhibits and schedules thereto and all amendments thereto made in accordance with the respective terms thereof.

“Transactions” means the transactions contemplated by this Agreement and the other Transaction Agreements.

“Transfer Taxes” means all sales, use, excise, gross receipts (other than gross receipts taxes in the nature of an income tax), transfer, stamp, and value added (including VAT) Taxes and all, recording, documentary and filing fees imposed by any Government Authority with respect thereto in connection with the purchase and sale of the Transferred Assets pursuant to this Agreement.

“Transferred Books and Records” means all books, records, data (including Personal Data), files and papers, whether in hard copy or computer format, including sales and promotional literature, manuals and data, sales and purchase correspondence, customer lists, lists of suppliers, Tax Returns and records, and personnel and employment records, that are primarily related to the Transferred Assets.

“U.S.” means the United States of America.

“Willful Breach” means any material breach of this Agreement that is the consequence of an action or omission by such breaching party that actually knew that the acting of such action or the failure to take such action would be or cause a material breach of this Agreement. For the avoidance of doubt, Willful Breach shall exclude any action or failure to take any action that constitutes Funding Willful Breach.

“**Wind-Up Date**” means the earlier to occur of (a) the date upon which all of the Seller Parties’ corporate or limited liability company existences cease to exist, and (b) December 31, 2026.

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Bankruptcy Court	Preliminary Statements
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Business Day	Exhibit A
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Business Systems	Exhibit A
Business Technology	Exhibit A
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Buyer Releasing Party	Section 7.07(c)
Buyer Savings Plan	Section 6.08(e)
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Buyer Transactions	Exhibit A
Buyer's Estimated Closing Statement	Section 3.01(b)(i)
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Causes of Action	Exhibit A
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Closing Conditions	Exhibit A
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Code	Exhibit A
Commercially Reasonable Terms	Section 6.12(d)
Commitment Letters	Section 5.05(a)
Communications Laws	Exhibit A
Competing Bid	Section 8.02
Confidentiality Agreements	Exhibit A
Consent	Exhibit A
Contract	Exhibit A
Contracting Parties	Section 12.18(a)
Control	Exhibit A
Covered Employee	Exhibit A
Crystallization Date	Section 3.01(b)(ii)
Cure Costs	Exhibit A

Cure Notice	Section 2.04(b)
Cut-Off Date	Section 2.02
Dataroom.....	Section 4.24(b)
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Estimated Closing Statement	Section 3.01(b)(i)
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Excluded Benefits	Section 6.08(a)
Excluded Business	Exhibit A
Excluded Contracts	Section 2.01(b)(i)
Excluded Liabilities	Section 2.01(d)
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FCC Applications.....	Exhibit A
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Government Authority	Exhibit A
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Holdback Contract.....	Section 2.02
HSR Act	Exhibit A
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Lookback Date	Exhibit A
Material Adverse Effect	Exhibit A
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MO Divested Business Assets	Exhibit A
MO Divested Business Liabilities	Exhibit A
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Net Disputed Item Amount	Exhibit A
NOAA	Exhibit A
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Non-Separated Contract	Section 6.10(c)
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Prohibited Amendments.....	Section 6.12(c)
Purchase Price Allocation.....	Section 3.04
R&W Insurance Policy.....	Section 6.13(a)
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Seller Transaction Expenses	Exhibit A
Seller Transactions.....	Exhibit A
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Specified Termination.....	Section 11.03(b)
Specified Unresolved Disputed Items	Section 3.01(c)

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Surviving Provisions	Section 11.03(a)
Systems	Exhibit A
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Transaction Dispute	Section 12.14
Transactions	Exhibit A
Transfer Taxes	Exhibit A
Transferred Assets	Section 2.01(a)
Transferred Books and Records	Exhibit A
Transferred Contracts	Section 2.01(a)(iii)
Transferred Employee	Section 6.08(a)
Transferred Executory Contract	Section 2.04(d)
Transferred Leased Property Assignment and Assumption Agreement	Section 3.03(a)(iii)
Transferred Leased Real Property	Section 2.01(a)(ii)
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Waiving Parties	Section 12.20
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Willful Breach	Exhibit A
Wind-Up Date	Exhibit A

Exhibit B

Form of Bill of Sale, Assignment and Assumption Agreement

[Intentionally omitted]

Exhibit C

Form of Transferred Leased Property Assignment and Assumption Agreement

[Intentionally omitted]

Exhibit D

Form of IP Assignment Agreement

[Intentionally omitted]

Exhibit E

Form of Transition Services Agreement

[Intentionally omitted]

Exhibit F

Debt Commitment Letter

[Intentionally omitted]

Exhibit G

Equity Commitment Letter

[Intentionally omitted]

Exhibit H

LETTERS OF CREDIT

[Intentionally omitted]

Exhibit I

Agreed Financial Budget

[Intentionally omitted]

Exhibit J

Sample Statement

[Intentionally omitted]

Exhibit K

Form of LC Draw Certification

[Intentionally omitted]

Exhibit L

Specified Matters

[To be filed under seal]

[REDACTED]

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Schedule A

SELLER PARTIES

1. Midwest Fiber Acquisition TopCo LLC
2. Midwest Fiber Acquisition MidCo1 LLC
3. Midwest Fiber Acquisition LLC
4. Everstream Solutions LLC
5. Everstream GLC Holding Company, LLC
6. Everstream Networks LLC
7. American Fiber Comm L.L.C.
8. HRS Internet, LLC
9. Lynx Network Group, Inc.
10. 15955 State Street LLC
11. Rocket Fiber LLC
12. Lynx Fiber One, LLC
13. Lynx Fiber Two, LLC

Exhibit 3

Sale Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	Chapter 11
	§	
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION, AND SALE HEARING

On May 28, 2025, Everstream Solutions LLC and its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a motion (Docket No. [●]) (the “**Motion**”) ² for the entry of an order (the “**Bidding Procedures Order**”): (i) approving the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as **Exhibit 1**; (ii) authorizing the Debtors to designate the Stalking Horse Bidder (as defined herein); (iii) approving certain protections for the Stalking Horse Bidder; (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling the hearing (the “**Sale Hearing**”) with respect to the approval of the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business, the MO Divested Business (each, as defined in the Stalking Horse Agreement), and any other assets the Successful Bidder or Back-Up Bidder elects not to purchase, to the Successful Bidder or the Back-Up Bidder pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”); (v) authorizing and approving the form and manner of the Sale Notice; (vi) approving the procedures (the “**Assumption and Assignment Procedures**”) set forth in the Bidding Procedures Order for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder (collectively, the “**Transferred Contracts**”) and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”); (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the Successful Bidder and of the Debtors’ calculation of the Cure

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midcol LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein or in the Motion), as applicable.

Costs, substantially in the form attached to the Bidding Procedures Order as **Exhibit 4** (the “Cure Notice”); and (viii) granting related relief.

On [●], 2025, the Bankruptcy Court entered the Bidding Procedures Order (Docket No. [●]) approving, among other things, the Bidding Procedures, which establishes the key dates and times related to the Auction, the Sale, and the Sale Hearing. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.³

Stalking Horse Bid

A binding stalking horse bid (the “**Stalking Horse Bid**”) has been submitted by Bluebird MidWest, LLC (the “**Stalking Horse Bidder**”), an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator. On May 22, 2025, the Debtors executed an asset purchase agreement with the Stalking Horse Bidder (the “**Stalking Horse Agreement**”)⁴ for the purchase of substantially all of the Debtors’ Assets, other than the PA Business (as defined in the Stalking Horse Agreement). The Stalking Horse Bid is subject to higher or otherwise better offers submitted in accordance with the terms and provisions of the Bidding Procedures.

Important Dates and Deadlines

- **Bid Deadline.** Any person or entity interested in participating in the Auction for the sale of the Debtors’ business must submit a Qualified Bid on or before **July 14, 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Bid Deadline**”).
- **Auction.** If the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), receive any Qualified Bids (other than the Stalking Horse Bid) with respect to the same or overlapping Assets or group of Assets, the Debtors will conduct the Auction on **July 17, 2025, at 9:00 a.m. (prevailing Central Time)**, at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to bidders, or at such other time and location as the Debtors, in consultation with the Consultation Parties, after providing notice to the Stalking Horse Bidder and the Qualified Bidders (as defined in the Bidding Procedures), may determine in their reasonable business judgment.
- **Sale Order.** The Debtors shall file a form of order approving the Sale no later than **[July 21], 2025, at 4:00 p.m. (prevailing Central Time)**.
- **Sale Objection Deadlines.** Objections to the Sale (a “**Sale Objection**”), including any objection to the sale of the Debtors’ business free and clear of all claims and interests pursuant to section 363(f) of the Bankruptcy Code, must be filed with the Bankruptcy Court and served on the Objection Notice Parties (as defined herein) so as to be received on or

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms in the Bidding Procedures shall control in all respects.

⁴ The Stalking Horse Agreement is attached as **Exhibit 2** to the Bidding Procedures Order.

before **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Sale Objection Deadline**”).

- **Sale Hearing.** A hearing to approve and authorize the Sale of the Debtors’ business to the Successful Bidder or the Back-Up Bidder will be held before the Honorable Christopher Lopez, in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, Courtroom 401, Houston, Texas 77002, on or before **[August 1], 2025**, or such other date as determined by the Court.

The Debtors intend to proceed with the Sale pursuant to section 363 of the Bankruptcy Code and intend to seek approval thereof at the Sale Hearing. The Sale Hearing may be adjourned or continued to a later date by the Bankruptcy Court, or by the Debtors by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

If the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders) (each, as defined in the Bidding Procedures), designate the Back-Up Bidder as the Successful Bidder and such Back-Up Bidder’s Back-Up Bid as the Successful Bid upon the filing of a notice to such effect with the Court (the “**Back-Up Bid Implementation Notice**”). The Debtors will serve the Back-Up Bid Implementation Notice pursuant to the Bidding Procedures Order and, if so designated, the Debtors will seek to consummate the Sale Transaction pursuant to such Back-Up Bid.

Filing Objections

Sale Objections must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (iii) state with particularity the basis and nature of any objection, and provide proposed language that, if accepted and incorporated by the Debtors, would obviate such objection; (iv) conform to the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules; (v) be filed with the Bankruptcy Court; and (vi) be served upon the following parties by the Sale Objection Deadline: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and

Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Michael Fingerhut, Esq. (michael.fingerhut@nortonrosefulbright.com)); (f) counsel to any statutory committee appointed in these chapter 11 cases; (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”). The Debtors may extend the Sale Objection Deadline as the Debtors deem appropriate.

ANY PARTY THAT FAILS TO FILE A SALE OBJECTION WITH THE BANKRUPTCY COURT AND SERVE IT ON THE OBJECTION NOTICE PARTIES BY [JULY 25], 2025, AT 4:00 P.M. (PREVAILING CENTRAL TIME) WILL BE FOREVER BARRED FROM ASSERTING, AT THE SALE HEARING OR THEREAFTER, ANY OBJECTION TO THE CONSUMMATION OF THE APPLICABLE SALE TRANSACTION AND ANY RELATED RELIEF REQUESTED BY THE DEBTORS.

Additional Information

The Bidding Procedures set forth the requirements for becoming a Qualified Bidder and submitting a Qualified Bid, and any party interested in making an offer to purchase the Debtors’ business must comply with the Bidding Procedures. Only Qualified Bids will be considered by the Debtors, in accordance with the Bidding Procedures.

Any party interested in submitting a bid should contact the Debtors’ investment bankers, Bank Street Group LLC (“**Bank Street**”) at projectlightspeed@bankstreet.com, and PJT Partners LP (“**PJT Partners**”) at lightspeedRSSGProjectPJT@pjtpartners.com and legal advisor, Weil, Gotshal & Manges LLP at everstream.bids@weil.com, as soon as possible.

Copies of the Motion, the Bidding Procedures Order, and the Bidding Procedures, as well as all related exhibits, the Stalking Horse Bid, and all other agreements filed with the Court, may be obtained free of charge at the website dedicated to the Debtors’ chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <http://cases.stretto.com/everstream> or can be requested by e-mail at everstreaminquiries@stretto.com.

Reservation of Rights

Except as otherwise set forth herein and in the Bidding Procedures, the Debtors reserve the right to, in their reasonable business judgment, in consultation with the Consultation Parties, in a manner consistent with their fiduciary duties and applicable law: (i) modify the Bidding Procedures; (ii) waive terms and conditions set forth therein with respect to all Potential Bidders; (iii) extend the dates and deadlines set forth therein; (iv) announce at the Auction the modified or additional procedures for conducting the Auction; and (v) provide reasonable accommodations to the Stalking Horse Bidder with respect to such terms, conditions, and deadlines of the bidding and

Auction process to promote further bids on any Assets, in each case, to the extent not materially inconsistent with the Bidding Procedures and the Bidding Procedures Order; provided that any such modification or other adjustment to the Bidding Procedures shall not disproportionately affect the Stalking Horse Bidder in any material adverse way. Except as provided in the Stalking Horse Agreement, nothing in the Bidding Procedures shall obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

FAILURE TO ABIDE BY THE BIDDING PROCEDURES, THE BIDDING PROCEDURES ORDER, OR ANY OTHER ORDER OF THE BANKRUPTCY COURT IN THESE CHAPTER 11 CASES MAY RESULT IN THE REJECTION OF YOUR BID.

THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER BY THE SALE OBJECTION DEADLINE SHALL FOREVER BAR SUCH PERSON OR ENTITY FROM ASSERTING ANY OBJECTION TO THE MOTION, THE ORDER APPROVING THE SALE TRANSACTION, THE PROPOSED SALE TRANSACTION, OR THE DEBTORS' CONSUMMATION OF THE STALKING HORSE BID OR ANY OTHER AGREEMENT EXECUTED BY THE DEBTORS AND THE SUCCESSFUL BIDDER OR BACK-UP BIDDER.

Dated: [●], 2025
Houston, Texas

WEIL, GOTSHAL & MANGES LLP

Gabriel A. Morgan (24125891)
Clifford W. Carlson (24090024)
700 Louisiana Street, Suite 3700
Houston, Texas 77002
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-and-

WEIL, GOTSHAL & MANGES LLP

Matthew S. Barr (admitted *pro hac vice*)
Andriana Georgallas (admitted *pro hac vice*)
Alexander P. Cohen (24109739)
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*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit 4

Cure Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	Chapter 11
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
Debtors. ¹	§	(Jointly Administered)

**NOTICE OF CURE COSTS AND
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS
AND UNEXPIRED LEASES IN CONNECTION WITH SALE TRANSACTION**

On May 28, 2025, Everstream Solutions LLC and its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a motion (Docket No. [●]) (the “**Motion**”)² for the entry of an order (the “**Bidding Procedures Order**”): (i) approving the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as **Exhibit 1**; (ii) authorizing the Debtors to designate the Stalking Horse Bidder (as defined herein); (iii) approving certain protections for the Stalking Horse Bidder; (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling the hearing (the “**Sale Hearing**”) with respect to the approval of the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business, the MO Divested Business (each, as defined in the Stalking Horse Agreement), and any other assets the Successful Bidder or Back-Up Bidder elects not to purchase, to the Successful Bidder or the Back-Up Bidder pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”); (v) authorizing and approving the form and manner of the Sale Notice; (vi) approving the procedures (the “**Assumption and Assignment Procedures**”) set forth in the Bidding Procedures Order for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder (collectively, the “**Transferred Contracts**”) and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”); (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the Successful Bidder and of the Debtors’ calculation of the Cure

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midcol LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein or in the Motion), as applicable.

Costs, substantially in the form attached to the Bidding Procedures Order as **Exhibit 4** (the “Cure Notice”); and (viii) granting related relief.

On [●], 2025, the Bankruptcy Court entered the Bidding Procedures Order (Docket No. [●]) approving, among other things, the Bidding Procedures, which establishes the key dates and times related the Auction and Sale Hearing.³ Recipients of this Notice should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.

[On July 21, 2025, the Debtors filed the *Notice of Designation of Successful Bidder and Back-Up Bidder*, (Docket No. [●]), which designates (i) [●] as the Successful Bidder and that certain [●], dated [●], 2025, as the Successful Bid and (ii) [●] as the Back-Up Bidder and that certain [●], dated [●], 2025, as the Back-Up Bid.]⁴

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE A COUNTERPARTY TO A TRANSFERRED CONTRACT. Each of the Transferred Contracts that may be assumed and assigned in connection with a Sale Transaction with the Successful Bidder and the Debtors’ calculation of the Cure Costs with respect thereto are set forth on **Exhibit A** hereto. The Cure Costs are the only amounts proposed to be paid upon the assumption and assignment of the Transferred Contracts.

Key Dates

The key dates for the sale process are as follows. Such dates may be extended or otherwise modified by the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), by filing a notice of such extension or modification on the Court’s docket:

- **Cure Objection Deadline.** Objections to the Debtors’ proposed Cure Costs of any Transferred Contract listed on **Exhibit A** (each, a “Cure Objection”) must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including what Cure Costs the objecting party believes are required, (iv) include any supporting documentation thereof, and (v) be filed with the Bankruptcy Court and served on the Objection Notice Parties (as defined herein) on or before **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)**.
- **Adequate Assurance Objection Deadline.** Objections to the adequate assurance of future performance of any Transferred Contract listed on **Exhibit A** (each, an “Adequate Assurance Objection”) must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including what Cure Costs the objecting party believes are required, (iv) include any supporting documentation thereof, and (v) be

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms in the Bidding Procedures shall control in all respects.

⁴ **[Note to Draft:** To remove if Cure Notice is filed prior to deadline to designate Successful Bidder.]

filed with the Bankruptcy Court and served on the Objection Notice Parties on or before **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)**.

- **Sale Hearing.** A hearing to approve and authorize the Sale of the Debtors' business to the Successful Bidder or the Back-Up Bidder will be held before the Honorable Christopher Lopez, in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street., Courtroom 401, Houston, TX 77002 on or before **[August 1], 2025**, or such other date as determined by the Bankruptcy Court.

If you have more than one Transferred Contract identified on **Exhibit A**, an objection with respect to one Transferred Contract shall have no impact on the other Transferred Contract(s) to which you are a party for which no objection has been filed and served. If a timely Cure Objection or Adequate Assurance Objection is received and such objection cannot otherwise be resolved by the parties, such objection shall be heard at the Sale Hearing or such later date as the Debtors determine prior to the scheduled Closing (as defined in the Stalking Horse Agreement) of the Sale Transaction.

The Debtors intend to proceed with the Sale pursuant to section 363 of the Bankruptcy Code and intend to seek approval thereof at the Sale Hearing. The Sale Hearing may be adjourned by the Bankruptcy Court or the Debtors from time to time without further notice other than by announcement in open court or through the filing of a notice or other document on the Bankruptcy Court's docket.

The Debtors request that if you (i) dispute the assumption of a Transferred Contract or (ii) have a Cure Objection or an Adequate Assurance Objection, you contact the Debtors prior to **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)** to attempt to resolve such dispute consensually. The Debtors' contact for such matters is Taylor Jones, Esq., at (212) 310-8805, or by e-mail at taylor.jones@weil.com. If such dispute cannot be resolved consensually prior to **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)**, you must file and serve an objection by the deadlines set forth above and in accordance with the procedures set forth in this Notice to preserve your right to object.

Filing Objections

A. Cure Objections

Any objection to the proposed assumption, assignment, or potential designation of an Transferred Contract identified on **Exhibit A**, the subject of which objection is the Debtors' proposed Cure Costs, if any, must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including, with respect to a Cure Objection, what Cure Costs the objecting party believes are required, (iv) include any appropriate documentation in support thereof, (v) be filed with the Court by no later than **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)**, and served on: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S.

Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Michael Fingerhut, Esq. (michael.fingerhut@nortonrosefulbright.com)); (f) counsel to any statutory committee appointed in these chapter 11 cases; (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”).

IF A COUNTERPARTY FAILS TO FILE WITH THE BANKRUPTCY COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY CURE OBJECTION, THE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO THE AMOUNT TO CURE ANY DEFAULT UNDER THE APPLICABLE TRANSFERRED CONTRACT. THE CURE COSTS SET FORTH ON EXHIBIT A HERETO SHALL BE CONTROLLING AND WILL BE THE ONLY AMOUNT NECESSARY TO CURE OUTSTANDING DEFAULTS UNDER THE APPLICABLE TRANSFERRED CONTRACT UNDER BANKRUPTCY CODE SECTION 365(B), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE TRANSFERRED CONTRACT, OR ANY OTHER DOCUMENT, AND THE APPLICABLE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY ADDITIONAL CURE OR OTHER AMOUNTS WITH RESPECT TO SUCH TRANSFERRED CONTRACT AGAINST THE DEBTORS, ANY SUCCESSFUL BIDDER, OR THE PROPERTY OF ANY OF THEM.

Any Transferred Contract(s) may be assumed and assigned to the Successful Bidder (or any other entity contemplated by the Successful Bid) if a non-Debtor party to a Transferred Contract has objected solely to the proposed Cure Cost, the Debtors may pay the undisputed portion of such Cure Cost and place the disputed amount in a segregated account pending further order of the Court or mutual agreement of the parties. So long as such disputed amounts are held in such segregated account, the Debtors may, without delay, assume and assign such Transferred Contract to the applicable assignee. Under such circumstances, the objecting non-Debtor counterparty's recourse is limited to the funds held in such segregated account.

B. Adequate Assurance Objections

Adequate Assurance Objections with respect to the assumption and assignment of any Transferred Contracts identified on **Exhibit A** to the Successful Bidder or as otherwise contemplated by the Successful Bid must (i) be in writing; (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules; (iii) state, with specificity, the legal and factual basis thereof, including, with respect to a Cure Objection, what Cure Costs the objecting party believes are required; (iv) include any appropriate documentation in support thereof; (v) be filed with the Court by no later than **[July 25], 2025, at 4:00 p.m. (prevailing Central Time)**, and served on the Objection Notice Parties.

IF A COUNTERPARTY FAILS TO FILE WITH THE BANKRUPTCY COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY ADEQUATE ASSURANCE OBJECTION, THE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO ADEQUATE ASSURANCE OF FUTURE PERFORMANCE OF THE APPLICABLE TRANSFERRED CONTRACT. THE SUCCESSFUL BIDDER (OR ANY OTHER ENTITY CONTEMPLATED BY THE SUCCESSFUL BID) SHALL BE DEEMED TO HAVE PROVIDED ADEQUATE ASSURANCE OF FUTURE PERFORMANCE WITH RESPECT TO THE APPLICABLE TRANSFERRED CONTRACT IN ACCORDANCE WITH BANKRUPTCY CODE SECTION 365(F)(2)(B), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE TRANSFERRED CONTRACT OR ANY OTHER DOCUMENT.

Additional Information

Copies of the Motion, the Bidding Procedures Order, and the Bidding Procedures, as well as all related exhibits, the Successful Bid, Back-Up Bid, and all other agreements filed with the Court, may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <http://cases.stretto.com/everstream> or can be requested by e-mail at everstreaminquiries@stretto.com.

Reservation of Rights

The inclusion of any contract or lease on **Exhibit A** shall not constitute or be deemed a determination or admission by the Debtors that such contract or other document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code (all rights with respect thereto being expressly reserved).

Dated: [●], 2025
Houston, Texas

WEIL, GOTSHAL & MANGES LLP
Gabriel A. Morgan (24125891)
Clifford W. Carlson (24090024)
700 Louisiana Street, Suite 3700
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-and-

WEIL, GOTSHAL & MANGES LLP
Matthew S. Barr (admitted *pro hac vice*)
Andriana Georgallas (admitted *pro hac vice*)
Alexander P. Cohen (24109739)
767 Fifth Avenue
New York, New York 10153
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andriana.georgallas@weil.com
alexander.cohen@weil.com

*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit A

Schedule of Transferred Contracts

Exhibit 5

Post-Auction Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
	§	
Debtors. ¹	§	(Jointly Administered)
	§	

NOTICE OF DESIGNATION OF SUCCESSFUL BID AND BACK-UP BID

PLEASE TAKE NOTICE OF THE FOLLOWING:

On May 28, 2025, Everstream Solutions LLC and its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a motion (Docket No. [●]) (the “**Motion**”)² for the entry of an order (the “**Bidding Procedures Order**”): (i) approving the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as Exhibit 1; (ii) authorizing the Debtors to designate the Stalking Horse Bidder (as defined herein); (iii) approving certain protections for the Stalking Horse Bidder; (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling the hearing (the “**Sale Hearing**”) with respect to the approval of the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business, the MO Divested Business (each, as defined in the Stalking Horse Agreement), and any other assets the Successful Bidder or Back-Up Bidder elects not to purchase, to the Successful Bidder or the Back-Up Bidder pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”); (v) authorizing and approving the form and manner of the Sale Notice; (vi) approving the procedures (the “**Assumption and Assignment Procedures**”) set forth in the Bidding Procedures Order for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder (collectively, the “**Transferred Contracts**”) and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”); (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midcol LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein or in the Motion), as applicable.

the Transferred Contracts to the Successful Bidder and of the Debtors' calculation of the Cure Costs, substantially in the form attached to the Bidding Procedures Order as **Exhibit 4** (the "**Cure Notice**"); and (viii) granting related relief.

On [●], 2025, the Bankruptcy Court entered the Bidding Procedures Order (Docket No. [●]) approving, among other things, the Bidding Procedures, which establishes the key dates and times related to the Auction, the Sale, and the Sale Hearing. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.³

Pursuant to the Bidding Procedures Order, (i) the deadline for submitting a Qualified Bid was July 14, 2025, at 4:00 p.m. (prevailing Central Time) (the "**Bid Deadline**") and (ii) in the event that (x) the Debtors timely received one or more Qualifying Bids or (y) a Stalking Horse Bidder was selected and the Debtors receive a Qualifying Bid that the Debtors in their business judgment, in consultation with the Consultation Parties, determine to be the initial highest bid, the Debtors would conduct the Auction.

The Debtors conducted the Auction in accordance with the Bidding Procedures and certain rules distributed to Auction attendees prior to and at the Auction. The Auction began on July 17, 2025, and concluded on [●], 2025. At the Auction, the Debtors determined that the highest or best offer was submitted by [●] (the "**Successful Bidder**") and the Successful Bidder's winning bid, the "**Successful Bid**") and the second highest or best offer was submitted by [●] (the "**Back-Up Bidder**," and the Back-up Bidder's bid, the "**Back-Up Bid**").

Filed with this Notice as **Exhibit A** is a full and complete copy of the final asset purchase agreement (the "**Asset Purchase Agreement**") between the Debtors and the Successful Bidder, containing the terms of the Successful Bid. Mailed copies of this Notice include the Asset Purchase Agreement without its voluminous schedules.

The Asset Purchase Agreement may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <https://cases.stretto.com/everstream>.

Important Dates and Deadlines

Sale Order

The Debtors shall file a form of order approving the Sale Transaction no later than [July 21], 2025, at 4:00 p.m. (prevailing Central Time).

Sale Objection Deadline:

Objections (the "**Objections**") to consummation of the Sale Transaction, if any, shall be filed with the Bankruptcy Court not later than [July 25], 2025, at 4:00 p.m. (prevailing Central

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms in the Bidding Procedures shall control in all respects.

Time). Any Objections not resolved prior to the Sale Hearing shall be argued at the Sale Hearing or such other time as set by the Bankruptcy Court.

Sale Hearing:

The Debtors have requested that the Sale Hearing to approve the Sale Transaction be held electronically via video/telephone before the Bankruptcy Court before the Honorable Christopher Lopez on **[August 1], 2025**. If you wish to participate telephonically, you must use the Bankruptcy Court's teleconference system at **1-832-917-1510** and entering conference code **590153**. You may also join by videoconference by use of an internet connection via **GoToMeeting**. To use **GoToMeeting**, the Court recommends that you download the free **GoToMeeting** application. To connect, you should enter the meeting code "JUDGELOPEZ" in the **GoToMeeting** app or click on the link on Judge Lopez's home page on the Southern District of Texas website. Once connected, click the settings icon in the upper right corner and enter your name under the personal information setting. At such hearing, the Debtors will seek the entry of an order of the Bankruptcy Court approving and authorizing the Sale to the Successful Bidder on the terms and conditions of the Successful Bid. The Successful Bidder shall appear at the Sale Hearing and be prepared to testify in support of the Successful Bid and the Successful Bidder's ability to close in a timely manner, including with respect to demonstrating adequate assurance of future performance that may be required in connection with any Transferred Contracts.

The Sale Hearing may be adjourned or continued to a later date by the Bankruptcy Court, or by the Debtors by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

The Debtors' presentation to the Bankruptcy Court for approval of a Successful Bid does not constitute the Debtors' acceptance of the Successful Bid. The Debtors shall be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by order of the Court.

If the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders) (each, as defined in the Bidding Procedures), designate the Back-Up Bidder as the Successful Bidder and such Back-Up Bidder's Back-Up Bid as the Successful Bid upon the filing of a notice to such effect with the Court (the "**Back-Up Bid Implementation Notice**"). The Debtors will serve the Back-Up Bid Implementation Notice pursuant to the Bidding Procedures Order and, if so designated, the Debtors will seek to consummate the Sale Transaction pursuant to such Back-Up Bid.

Additional Information

In addition to the Asset Purchase Agreement, copies of the Motion, the Bidding Procedures Order, and the Bidding Procedures may also be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <https://cases.stretto.com/everstream>.

Dated: [●], 2025
Houston, Texas

WEIL, GOTSHAL & MANGES LLP
Gabriel A. Morgan (24125891)
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-and-

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Andriana Georgallas (admitted *pro hac vice*)
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*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit A

Asset Purchase Agreement

EXHIBIT TM-10

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	
	§	Case No. 25-90144 (CML)
	§	
Debtors. ¹	§	(Joint Administration Requested)

**DECLARATION OF JUSTIN SCHMALTZ IN SUPPORT OF
DEBTORS' CHAPTER 11 PETITIONS AND FIRST DAY RELIEF**

I, Justin Schmaltz, pursuant to section 1746 of title 28 of the United States Code, hereby declare that the following is true to the best of my knowledge, information, and belief:

1. I am a Managing Director at Alvarez & Marsal North America, LLC (“**A&M**”). For the past two years, my team and I have been working closely with Everstream Solutions LLC and its affiliated debtors, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**,” “**Everstream**,” or the “**Company**”) on their restructuring initiatives. As a result of my work with the Debtors, I am familiar with the Debtors’ day-to-day operations, business affairs, financial performance, and restructuring efforts.

2. A&M is a leading restructuring consulting firm with extensive experience providing high quality, specialized management and restructuring advisory services to debtors and distressed companies. Specifically, A&M’s core services include turnaround advisory services,

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

interim and crisis management, revenue enhancement, claims management, and creditor and risk management advisory services. A&M provides a wide range of debtor advisory services targeted at stabilizing and improving a company's financial position, including: developing or validating forecasts, business plans, and related assessments of strategic position; monitoring and managing cash, cash flow, and supplier relationships; assessing and recommending cost reduction strategies; and designing and negotiating financial restructuring packages. In addition, A&M provides advice on specific aspects of the turnaround process and helps manage complex constituency relations and communications. A&M is known for its ability to work alongside company management and key constituents during chapter 11 restructurings to develop a feasible and executable plan of reorganization.

3. I have over 22 years of experience providing financial and restructuring services and have held senior roles at financial advisory and investment management firms. I also have experience serving as a chief restructuring officer.

4. My experience spans multiple industries, including telecommunications, media, and technology, and involves managing teams that focus on restructuring and performance improvement. I provide a wide range of services to the companies I advise, and my expertise includes business improvement and turnarounds, restructurings, and successful bankruptcy reorganizations.

5. In April 2023, the Debtors retained A&M to assist with liquidity management, evaluate the Debtors' business plan, and identify cost-reduction opportunities. More recently, A&M was asked to assist with contingency preparations if a chapter 11 filing became necessary. From the outset of A&M's retention, I have worked closely with the Debtors'

management team and other advisors on numerous activities to support the Debtors' turnaround and restructuring efforts.

6. On the date hereof (the "**Petition Date**"), the Debtors each commenced with the Court a voluntary case under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). I am generally familiar with the Debtors' day-to-day operations, books and records, and business and financial affairs, as well as the circumstances leading to the commencement of these chapter 11 cases.

7. I submit this declaration (the "**Declaration**") to assist the Court and other parties in interest in understanding the circumstances and events that led to the commencement of these chapter 11 cases and in support of the motions and applications that the Debtors have filed concurrently herewith (the "**First Day Pleadings**"). Except as otherwise indicated herein, the facts in this Declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by my team and employees of the Debtors, or my experience, knowledge, and information concerning the Debtors' operations. If called upon to testify, I would testify competently to the facts set forth in this Declaration.

8. This Declaration is divided into five sections. Section I provides an overview of the Debtors and these chapter 11 cases. Section II describes the Debtors' business. Section III describes the Debtors' corporate and capital structure. Section IV describes the circumstances that led to the commencement of these chapter 11 cases. Section V provides a summary of the First Day Pleadings and factual bases for the relief requested therein.

I. Overview

9. Everstream is a business-only data, internet, and communications service provider with more than 34,000 miles of fiber network situated in 13 states primarily across the midwestern and northeastern regions of the United States (the "**Fiber Network**"). Everstream

provides its diverse customer base with enterprise-grade fiber and data services, including dedicated internet access, dark fiber, Ethernet, wavelength, advanced communications solutions, network security, and other managed service products. Headquartered in Cleveland, Ohio, Everstream employs approximately 280 people responsible for ensuring, among other things, that the Debtors' sales, technology, engineering, and operational segments run smoothly and that customer satisfaction is met on a daily basis. Everstream had adjusted EBITDA and revenue of approximately \$45 million and \$156 million, respectively, for fiscal year 2024.

10. Since its inception in 2014, Everstream has undergone major network expansion through a combination of organic growth and strategic acquisitions described in further detail in Section II. This growth-driven model required the expenditure of significant capital to expand the Fiber Network while simultaneously integrating multiple acquisitions into the Company's business. At the same time, a combination of unanticipated operational losses and industry headwinds caused a decline in Everstream's revenue-generating capacity, resulting in liquidity constraints. As a result, Everstream's operating performance has been unable to support the capital expenditures necessary for the Company to sustain expansion of the Fiber Network, operate profitably, and meet certain obligations under the Prepetition Credit Agreements (as defined below), all of which have exacerbated the Company's financial situation. As of the Petition Date, the Company's capital structure includes approximately \$1.06 billion in funded debt, consisting of \$794.4 million of OpCo Loans and \$262.8 million of HoldCo Loans (each, as defined below).

11. In 2023, the Company found itself with limited liquidity and at risk of default under the Prepetition Credit Agreements. Accordingly, in April 2023, the Company engaged restructuring advisors and began its review of strategic alternatives with respect to its

capital structure and diminishing near-term liquidity. Together, the Company and its advisors explored various potential transactions to improve the Company's liquidity profile and restructure its debt obligations with minimal disruption to the Company's day-to-day operations. As discussed in more detail below, in October 2023, those efforts resulted in the 2023 Recapitalization Transactions (as defined below), including (i) amendments to the Prepetition Credit Agreements necessary to preserve existing—and enhance go-forward—liquidity (including the provision of approximately \$83.6 million of liquidity relief by the OpCo Lenders (as defined below) from October 2023 to October 2024 through the conversion of a portion of their cash interest under the OpCo Credit Agreement (as defined below) to “payment-in-kind” (“**PIK**”)), (ii) additional significant equity contributions from the Sponsor (as defined below), and (iii) the commencement of a robust sale process for the Company's assets in the states (and surrounding areas) of Illinois (the “**Illinois Assets**”), Missouri (the “**Missouri Assets**”), and Pennsylvania (the “**Pennsylvania Assets**,” together with the Illinois Assets and Missouri Assets, the “**Select Assets**,” and the prepetition sale process related thereto, the “**Initial Prepetition Sale Process**”).

12. In April 2024, the Company resumed its review of strategic alternatives. As of such time, the Initial Prepetition Sale Process had not yet resulted in a transaction that had closed, the liquidity support provided by the 2023 Recapitalization Transactions was diminishing, and the Company was at risk of default under the Prepetition Credit Agreements. In September 2024, the Initial Prepetition Sale Process was expanded to solicit interest in a sale of all or substantially all of the Company's assets other than the Select Assets (such assets, “**WholeCo**,” such sale process for WholeCo, the “**WholeCo Prepetition Sale Process**,” and, together with the Initial Prepetition Sale Process, the “**Prepetition Sale Process**”). In connection therewith, the Company and its advisors commenced outreach to a large universe of strategic and financial

counterparties with experience in the telecommunications space to solicit interest in a potential acquisition of WholeCo, all as further detailed in the *Declaration of James Henry in Support of Motion of Debtors for Entry of an Order (I) Approving (A) Bidding Procedures, (B) Designation of Stalking Horse Bidder and Stalking Horse Bid Protections, (C) Form and Manner of Notice of Sale, Auction, and Sale Hearing, and (D) Assumption and Assignment Procedures, (II) Scheduling Auction And Sale Hearing, and (III) Granting Related Relief*, filed concurrently herewith.

13. The Initial Prepetition Sale Process ultimately resulted in the going-concern sales to industry participants of the (i) Missouri Assets (the “**Missouri Sale**”), which sale closed in September 2024, and (ii) Illinois Assets (the “**Illinois Sale**”), which sale closed in May 2025. The WholeCo Prepetition Sale Process resulted in several proposals, ultimately paving the way for a binding bid for WholeCo from Bluebird MidWest, LLC, an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator (“**Bluebird**”).

14. The Debtors are pleased to report that, after considerable deliberation, further negotiations, and multiple rounds of revisions to the terms of Bluebird’s bid, the Company and each Restructuring Advisory Committee (as defined below) determined that Bluebird’s bid for WholeCo presented the most-value maximizing transaction through the WholeCo Prepetition Sale Process, and the Company entered into a purchase agreement in connection therewith (the “**Stalking Horse APA**”).² As set forth in the Stalking Horse APA, signed May 22, 2025, Bluebird’s bid provides for the going-concern sale of WholeCo for an aggregate purchase price of

² A complete summary of the proposed sale of WholeCo, including additional details with respect to the WholeCo Prepetition Sale Process, the bidding procedures governing the Postpetition Sale Process (as defined below), and the material terms of the Stalking Horse APA will be set forth in the *Motion of Debtors for Entry of an Order (I) Approving (A) Bidding Procedures, (B) Designation of Stalking Horse Bidder and Stalking Horse Bid Protections, (C) Form and Manner of Notice of Sale, Auction, and Sale Hearing, and (D) Assumption and Assignment Procedures, (II) Scheduling Auction and Sale Hearing, and (III) Granting Related Relief* (the “**Bidding Procedures Motion**”) and the declaration in support thereof, each filed contemporaneously herewith.

\$285 million in cash (subject to purchase price adjustments) plus the assumption of certain liabilities. This proposed transaction is supported by the Company's key stakeholders, namely the Company's Lenders (as defined below).

15. In parallel with the above Prepetition Sale Process, the Company continued to engage proactively in negotiations and discussions with the Company's Lenders and Sponsor in connection with the Company's review of strategic alternatives. Such negotiations and discussions were based, in large part, on (i) obtaining committed debtor-in-possession financing to ensure a smooth transition into chapter 11, (ii) the sale of WholeCo to a third-party stalking horse bidder, (iii) the postpetition continuation of the Company's WholeCo sale process for higher or otherwise better bids than the Stalking Horse APA (the "**Postpetition Sale Process**"), and (iv) the wind down of the Pennsylvania Assets.

16. As a result of constructive discussions, the Debtors have filed concurrently herewith motions seeking approval of (i) a proposed debtor-in-possession financing package (the "**DIP Facility**") in the aggregate principal amount of up to \$186 million, including \$55 million of new money backstopped by certain of the OpCo Lenders (in such capacity, the "**DIP Lenders**"), the consensual use of the Debtors' cash collateral, and access to the net proceeds from the Illinois Sale (which currently sit with the OpCo Agent (as defined below) on behalf of the OpCo Lenders) and (ii) bidding procedures for one or more value-maximizing transactions for WholeCo and the Pennsylvania Assets. The DIP Facility will provide the Company with much-needed liquidity and help further the Company's chapter 11 objectives and, given the level of interest in the WholeCo Prepetition Sale Process to date, the Debtors believe that the proposed bidding procedures will foster a competitive bidding environment.

17. Proposed Timeline. An expeditious resolution of these chapter 11 cases is crucial to preserving and maximizing the value of the Company for the benefit of all stakeholders. Accordingly, the Company has agreed to the following chapter 11 timeline in the DIP Facility documents and the Stalking Horse APA (subject to the Court's calendar):

Event	Proposed Date	DIP Milestone	APA Milestone
Entry of Interim DIP Order		June 2, 2025	
Entry of Bidding Procedures Order		June 27, 2025	June 27, 2025
Entry of Final DIP Order		July 12, 2025	
Proposed Bid Deadline	July 14, 2025		July 17, 2025
Proposed Auction Date	July 17, 2025	July 22, 2025	July 22, 2025
Sale Hearing	August 1, 2025		
Entry of Sale Order		August 1, 2025	August 1, 2025
Debtors to file Plan / DS / Solicitation Materials		August 16, 2025	
Entry of Order Approving Disclosure Statement		September 20, 2025	
Confirmation Date (if Stalking Horse Bidder is successful bidder)		October 30, 2025	
Confirmation Date (if Stalking Horse Bidder is not successful bidder)		November 14, 2025	
Plan Effective Date		March 26, 2026	

18. The Debtors and DIP Lenders are aligned in their support of an efficient Postpetition Sale Process that minimizes the impact to the Company's operations, customers, and employees. The proposed timeline for these chapter 11 cases appropriately balances the Debtors' need to complete their restructuring process quickly and sufficiently test value in the market.

II. Debtors' Business

A. History and Formation

19. Everstream was founded in 2014 as a for-profit subsidiary of OneCommunity, a Cleveland-based nonprofit organization, to provide fiber, data, and network services to businesses across northeast Ohio. Since its founding, the Company has expanded through a combination of organic growth and strategic acquisitions. Between 2016 and 2021, the Company acquired fiber assets from several regional companies, scaling and densifying the Fiber Network in attractive urban markets across the Midwest and Northeast. Alongside the acquisition and integration of these businesses, between 2019 and 2022, the Company undertook organic network expansion initiatives to meet the contemplated needs of certain customers through strategic transactions and construction of additional fiber route miles that would connect to wireless network towers. The Company grew its footprint significantly through the addition of thousands of route miles to deliver connectivity to underserved areas, connect new markets to existing footprints, and better monetize the acquired assets described above.

20. The Company has had a number of owners and has grown significantly since its inception. In 2015, M/C Partners VII, L.P., a Boston-based private equity firm focused exclusively on the communications, media, and information technology sectors, acquired Everstream from OneCommunity. Three years later, in 2018, Everstream was acquired by Global Infrastructure Fund II (GIF II) ("**GIF II**"), an investment fund managed by an affiliate of AMP Capital Investors International Holdings Ltd. ("**AMP**"), a global specialist investment manager. As set forth in more detail below, under GIF II, the Company expanded the Fiber Network, multiplied the number of metro areas covered, and increased its customer base. In February 2023, certain subsidiaries and affiliates of DigitalBridge Group, Inc. (collectively, "**DigitalBridge**" or the "**Sponsor**") acquired from certain subsidiaries and affiliates of AMP Group Limited the global

infrastructure equity investment management business known as AMP Capital Investors (the “**InfraBridge Acquisition**”), including (among other investment funds previously managed by affiliates of AMP) GIF II, which DigitalBridge later renamed InfraBridge. As part of the InfraBridge Acquisition, DigitalBridge acquired ownership of the general partner and the portfolio manager of the InfraBridge Funds.³ Everstream is one of the portfolio companies of the InfraBridge Funds now being managed by InfraBridge.

B. Debtors’ Business Operations



21. Everstream classifies its suite of services into three broad categories: (i) connectivity services, (ii) communications solutions, and (iii) network security. The Company offers comprehensive products under each category, leveraging the Fiber Network’s extensive regional coverage to meet the needs of its diverse customer base, including major telecommunications carriers and large multinational enterprises. Everstream’s dedicated engineers work with customers to develop a package to suit their needs, including design,

³ The “**InfraBridge Funds**” means, collectively, InfraBridge Global Infrastructure Fund II A L.P., InfraBridge Global Infrastructure Fund II B L.P., InfraBridge Global Infrastructure Fund II C L.P., and InfraBridge Global Infrastructure Fund II E L.P.

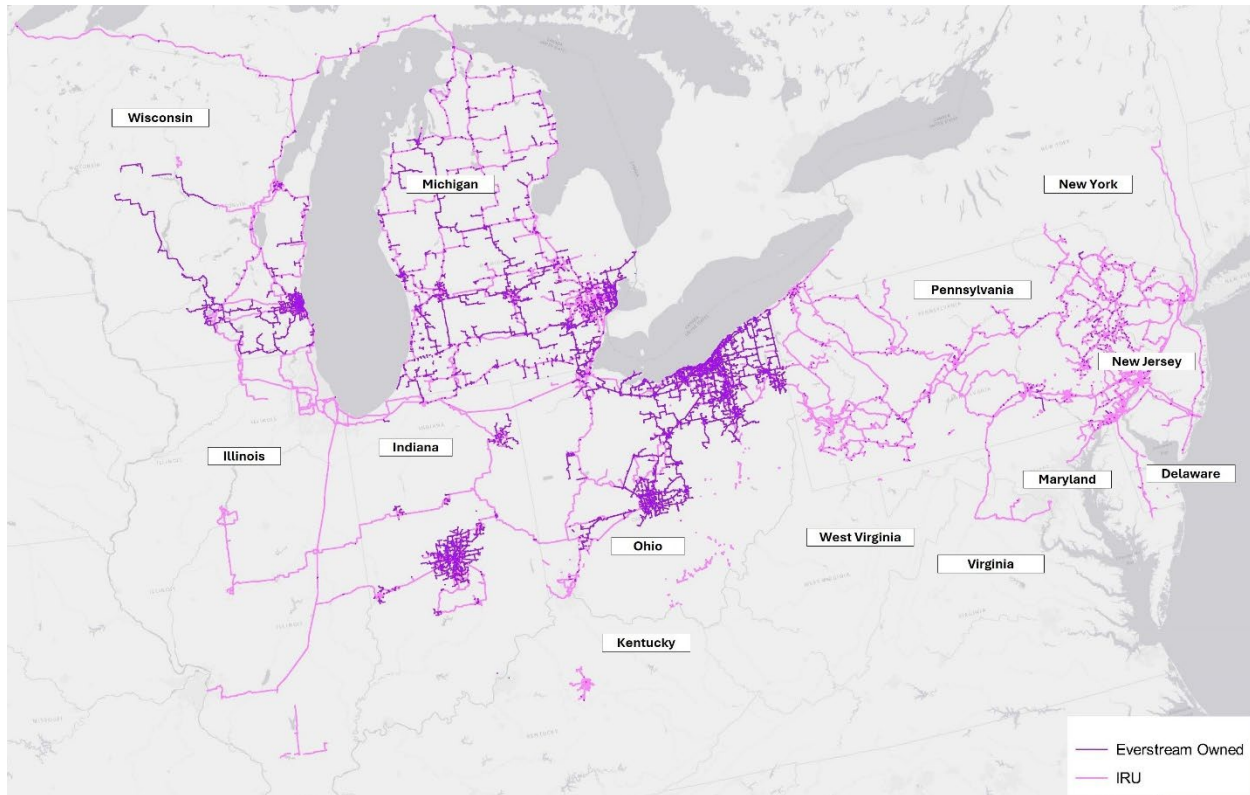
installation, and technical support. The Debtors' annual revenue and adjusted EBITDA over the last three years are summarized below:

Fiscal Year	Revenue	Adjusted EBITDA
2022	\$135.8 million	\$42.4 million
2023	\$148.1 million	\$43.0 million
2024	\$156.1 million	\$45.2 million

1. Fiber Network

22. Everstream's Fiber Network extends through Delaware, Illinois, Indiana, Kentucky, Maryland, Michigan, New Jersey, New York, Ohio, Pennsylvania, Virginia, West Virginia, Wisconsin, and the District of Columbia. The Fiber Network connects to most of the major wireless networks and data centers across the Midwest and Northeast, acting as a nexus point for customer data, internet, and voice traffic. The Company owns approximately 37% of its fiber infrastructure, which is located primarily in metro areas. The rest of the Fiber Network consists of leased fiber accessed through dark fiber agreements and indefeasible rights of use agreements (each, an "**IRU Agreement**").⁴ The leased fiber is located mainly in non-metro market routes and used for capital efficiency purposes. A map of the Fiber Network is provided below:

⁴ An IRU Agreement is a type of telecommunications lease between the owners of a communications system and a grantee of that system. Generally, the grantee has exclusive use of the relevant capacity of the grantor's network for a specified number of years.



2. Connectivity Services

23. Everstream offers a variety of services customized to clients' individual needs, including wavelength services, dedicated internet access, wide area network solutions, and dark fiber services. Everstream's dedicated internet access delivers reliable, symmetrical, and high-capacity fiber-based internet, while its dark fiber is a customized, secure, private network exclusive to a particular customer. Everstream's wavelength services provide businesses, carriers, and data centers that transfer voluminous amounts of data requiring extremely high-bandwidth and low-latency with a cost-effective, high-speed connection through the Fiber Network. Everstream also delivers customized point-to-point and point-to-multipoint solutions across industry-certified wide area networks. In all instances, Everstream's connectivity services reliably meet enterprise needs for high-capacity, low-latency connectivity.

3. Communications Solutions

24. Everstream offers advanced voice and collaboration solutions to customers, including Voice over Internet Protocol, cloud-based and geo-diverse unified communications, and voice messaging services. Everstream's reliable, cloud-based communications solutions offer clients the flexibility to allow their workforce to communicate from anywhere and can also handle complex call routing and call center needs. Depending on the service, Everstream also provides access to its network operations centers, which are staffed with skilled voice engineers that provide 24-hour, year-round support. Everstream's communications services enable its business-only customer base to provide quality service to their own customers.

4. Network Security

25. Everstream offers enterprise-grade defense services, including "Distributed Denial of Service" mitigation and managed service products for firewalls, wifi, and routers. These network security services enable customers that prioritize security but lack the resources to manage it in-house to safeguard their networks and ultimately protect their business from malicious attacks.

C. Regulation of Debtors' Business

26. Everstream's operations require that certain of its operating entities hold licenses, certificates, and/or other regulatory authorizations from the Federal Communications Commission ("FCC") and state Public Utilities Commissions ("PUCs"). The FCC generally has the power to modify or terminate a carrier's authority to provide regulated wireline and wireless offerings for failure to comply with certain federal laws and regulations and may impose fines or other penalties for violations of the same. The state PUCs typically have similar powers with respect to the intrastate wireline offerings provided within their jurisdiction. Although the FCC and state PUCs grant the authority to operate those aspects of Everstream's services that are subject to regulation, they typically exercise minimal control over Everstream's services and pricing. The

FCC and state PUCs require submission of periodic reports documenting, among other data, interstate and intrastate revenue, fee assessments, and general regulatory governance. In some states, Everstream is required to file tariffs of rates and terms and conditions of access and service.

27. In addition, Everstream's business is subject to various other rules and regulations at the federal, state, and local levels. Municipalities and other local government agencies regulate the public rights-of-way necessary to install and operate fiber networks. These regulations affect the way Everstream can conduct its business and its costs of doing so. Everstream expects to incur ongoing operational, legal, and system costs to comply with federal, state, and local rules and regulations.

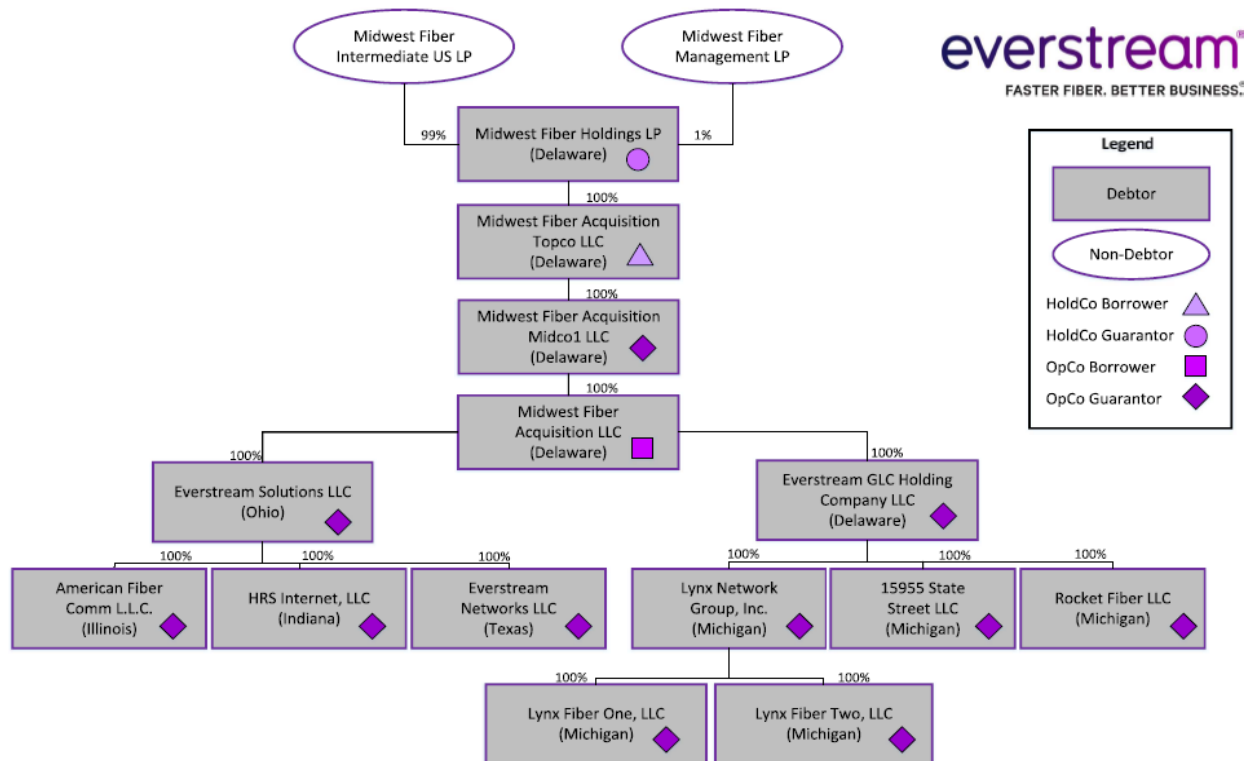
III. Debtors' Corporate and Capital Structure

A. Corporate Structure, Governance, and Management

28. The Debtors consist of 14 entities formed under the laws of Delaware, Illinois, Indiana, Michigan, Ohio, and Texas. Each of the Debtors is either a borrower or obligor to one of the Debtors' prepetition funded debt facilities as further described below.

29. Debtor Midwest Fiber Holdings LP ("**HoldCo**") is the Company's ultimate parent. All other Debtors are wholly-owned direct or indirect subsidiaries of HoldCo. The Company's operations are largely conducted through Everstream Solutions LLC, which enters into most lease, customer, vendor, and other agreements on behalf of the Company. The Debtors' employees are employed by Everstream Solutions LLC and Everstream GLC Holding Company LLC, and payroll is administered through both entities.

30. The Debtors' organizational structure, as of the Petition Date, is set forth below:



31. All Debtors other than HoldCo, Midwest Fiber Acquisition LLC (“**OpCo**”), and Lynx Network Group, Inc. (“**Lynx**”), each of which has either a board of managers or directors (collectively, the “**Boards**”), are member-managed limited liability companies. As discussed in more detail below, in addition to other committees and in connection with the Company’s evaluation and execution of strategic alternatives, the HoldCo Board and OpCo Board (each, as defined below) each formed (i) a restructuring advisory committee (each such committee, a “**Restructuring Advisory Committee**” and together, the “**RAC**”), currently comprised of two independent managers, to oversee the Company’s review of such strategic alternatives and (ii) a special investigation committee (each such committee, the “**Special Investigation Committee**”), currently comprised of one independent manager, to, among other things, conduct and oversee any investigation of potential claims and causes of action belonging to the Company. The Lynx Board (as defined below) has a Special Investigation Committee (together with the HoldCo and OpCo

Special Investigation Committees, the “**SIC**”), comprised of one independent director, but not a Restructuring Advisory Committee as the composition of the Lynx Board is the same as the RAC.

32. The following table sets forth the names of the members of the board of managers and directors, as applicable, for HoldCo (the “**HoldCo Board**”), OpCo (the “**OpCo Board**”), and Lynx (the “**Lynx Board**”) as well as their respective RAC members, as applicable:⁵

Name	HoldCo Board	OpCo Board	Lynx Board
James Burke	Manager	—	—
Jeff Ginsberg	Manager	—	—
Christian Velasco	Manager	—	—
Ken Fitzpatrick	Manager	Manager	—
Eric Burgess	—	Manager	—
Michael Robinson	Independent Manager, Member of RAC	Independent Manager, Member of RAC	Independent Director
Melker Sandberg	Independent Manager, Member of RAC, Member of SIC	Independent Manager, Member of RAC, Member of SIC	Independent Director, Member of SIC

33. The following table sets forth the names and positions of the Company’s executive management team:

Name	Position
Ken Fitzpatrick	Chief Executive Officer, President
Eric Burgess	Chief Financial Officer
Bill Hunt	Executive Vice President, General Counsel
Greg Meinczinger	Executive Vice President, Operations & Technology
Mike D’Angelo	Executive Vice President, Sales & Marketing
Lillian Kash	Executive Vice President, Human Resources & Administration

⁵ Prior to the Petition Date, the following individuals also served on one or more of the Boards for some or all of their tenure: (i) Eugene Davis (through August 15, 2024; HoldCo Board); (ii) Damian Stanley (through October 11, 2024; HoldCo Board); (iii) David Pistacchio (through October 24, 2024; HoldCo Board); (iv) Timothy Pohl (through April 29, 2025; the Boards); and (v) Patrick Bartels (through April 29, 2025; the Boards).

B. Capital Structure

34. As of the Petition Date, the Debtors are either borrowers or obligors with respect to approximately \$1.06 billion in prepetition funded debt obligations. The HoldCo Credit Agreement (as defined below) is secured by a lien on substantially all of the assets of Holdco and Midwest Fiber Acquisition TopCo LLC, including pledges of their equity interests in Midwest Fiber Acquisition Topco LLC and Midwest Fiber Acquisition Midco 1 LLC. The OpCo Credit Agreement is secured by a lien on substantially all of the assets of Midwest Fiber Acquisition Midco1 LLC, OpCo, and its subsidiaries, which are the Company's operating entities. Accordingly, the HoldCo Obligations (as defined below) are structurally subordinated to the OpCo Obligations (as defined below).

	Outstanding Principal (Approx.)⁽¹⁾⁽²⁾
OpCo Super-Priority DDTL	\$20.7 million
OpCo Term Loan	\$651.6 million
OpCo DDTL	\$122.1 million
Total OpCo Debt	\$794.4 million
HoldCo Term Loan	\$220.7 million
HoldCo DDTL	\$42.1 million
Total HoldCo Debt	\$262.8 million
Total Funded Debt	\$1.06 billion

(1) The OpCo Loans were structured such that PIK interest on all outstanding principal is added to a separate PIK loan, which itself accrues interest. By contrast, the HoldCo Loans apply PIK interest directly to the outstanding principal balances, consistent with a traditional PIK structure.

(2) Includes fees and PIK interest accrual through May 28, 2025.

1. OpCo Credit Agreement

35. OpCo, a Delaware limited liability company (the “**OpCo Borrower**”), and Midwest Fiber Acquisition Midco1 LLC, a Delaware limited liability company (the “**OpCo Pledgor**”), are party to that certain *Credit and Guaranty Agreement*, dated as of March 29, 2022 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to

time, the “**OpCo Credit Agreement**”), by and among the OpCo Borrower, OpCo Pledgor, certain of the other Debtors (collectively, the “**OpCo Subsidiary Guarantors**” and, together with the OpCo Borrower and OpCo Pledgor, the “**OpCo Loan Parties**”), the lenders from time to time party thereto (the “**OpCo Lenders**”) and Société Générale, as administrative agent (the “**OpCo Agent**”). Pursuant to the OpCo Credit Agreement, as of September 29, 2023, the OpCo Lenders had provided the OpCo Borrower with (i) a senior secured term loan in an aggregate principal amount of \$494.5 million, (ii) delayed draw term loans in an aggregate principal amount of \$102.4 million, and (iii) revolving loans in an aggregate principal amount of \$37 million (collectively, the “**Initial OpCo Loans**”).

36. On October 24, 2023, the Initial OpCo Loans were converted into \$533.9 million of Initial Amended Term Loans (as defined in the OpCo Credit Agreement) (the “**OpCo Term Loan**”) and \$100 million of Amended DDTL Loans (as defined in the OpCo Credit Agreement) (the “**OpCo DDTL**”). On February 25, 2025, the OpCo Borrower entered into that certain *Amendment No. 8 and Waiver to Credit and Guaranty Agreement and Amendment No. 2 to Pledge and Security Agreement*, and the Super-Priority DDTL Lenders (as defined in the OpCo Credit Agreement), a subset of the OpCo Lenders, agreed to provide the Super-Priority DDTL Loans (as defined in the OpCo Credit Agreement) (the “**OpCo Super-Priority DDTL**”) and, together with the OpCo Term Loan and OpCo DDTL, the “**OpCo Loans**”) in an aggregate principal amount equal to \$19 million. The OpCo Super-Priority DDTL is secured on a *pari passu* basis with the OpCo Term Loan and the OpCo DDTL. The OpCo Super-Priority DDTL is to be repaid first in the waterfall under the OpCo Credit Agreement ahead of the OpCo Term Loan and OpCo DDTL, which are to be repaid on a pro rata basis.

37. As of the Petition Date, the aggregate principal amount (including estimated PIK interest) owed under the OpCo Credit Agreement is \$794.4 million, comprised of approximately \$651.6 million of OpCo Term Loan, \$122.1 million of OpCo DDTL, and \$20.7 million of OpCo Super-Priority DDTL. The obligations under the OpCo Credit Agreement (the “**OpCo Obligations**”) are secured by a lien on substantially all of the Debtors’ (other than the HoldCo Pledgor and HoldCo Borrower (each, as defined below)) tangible and intangible property (subject to certain excluded assets as set forth in the OpCo Loan Documents (as defined in the OpCo Credit Agreement)) and are guaranteed by the OpCo Pledgor and OpCo Subsidiary Guarantors.

2. **HoldCo Credit Agreement**

38. HoldCo, a Delaware limited partnership (the “**HoldCo Pledgor**”), and Midwest Fiber Acquisition Topco LLC, a Delaware limited liability company (the “**HoldCo Borrower**” and, together with the HoldCo Pledgor, the “**HoldCo Loan Parties**”), are party to that certain *Credit and Guaranty Agreement*, dated as of March 29, 2022 (as amended, restated, amended and restated, supplemented, or otherwise modified from time to time, the “**HoldCo Credit Agreement**” and, together with the OpCo Credit Agreement, the “**Prepetition Credit Agreements**”), by and among the HoldCo Loan Parties, the lenders from time to time party thereto (the “**HoldCo Lenders**” and, together with the OpCo Lenders, the “**Lenders**”) and Alter Domus (US) LLC, as administrative agent (the “**HoldCo Agent**”). Pursuant to the HoldCo Credit Agreement, the HoldCo Lenders agreed to provide the HoldCo Borrower with (i) a senior secured term loan in an initial aggregate principal amount of \$165 million (the “**HoldCo Term Loan**”) and (ii) delayed draw term commitments in an aggregate principal amount of \$55 million (the “**HoldCo DDTL**” and, together with the HoldCo Term Loan,

the “**HoldCo Loans**”). The HoldCo Loans are secured on a *pari passu* basis and share in payment priority on a pro rata basis.

39. As of the Petition Date, the aggregate principal amount (including estimated PIK interest) owed under the HoldCo Credit Agreement is approximately \$262.8 million, comprised of approximately \$220.7 million of HoldCo Term Loans and approximately \$42.1 million of HoldCo DDTL. The obligations under the HoldCo Credit Agreement (the “**HoldCo Obligations**”) are secured by a lien on substantially all of the HoldCo Loan Parties’ tangible and intangible property (subject to certain specified liens as set forth in the HoldCo Credit Agreement and certain excluded assets as set forth in the HoldCo Loan Documents (as defined in the HoldCo Credit Agreement)) and are guaranteed by the HoldCo Pledgor.

3. General Unsecured Claims

40. As of the Petition Date, the Debtors estimate that there is approximately \$50 million on account of claims against the Debtors that are neither secured by collateral nor entitled to priority under the Bankruptcy Code or any order of the Court.

4. Equity Ownership

41. As noted above, Everstream is a privately held company. The InfraBridge Funds (including the limited partners thereof), along with certain current and former members of Everstream’s management, own all the equity interests in the Debtors through several intermediate entities, including Midwest Fiber Intermediate US LP and Midwest Fiber Management LP, which collectively own or control approximately 99% and 1%, respectively, of HoldCo’s equity interests. All other Debtors are wholly-owned direct or indirect subsidiaries of HoldCo.

IV. Key Events Leading to Commencement of Chapter 11 Cases

As described above, several factors contributed to the commencement of these chapter 11 cases, including the incurrence of significant capital expenditures to expand the Fiber

Network, unanticipated operational losses, industry headwinds, and unsustainable debt obligations.

A. Challenges Facing Debtors' Business

42. **Leverage.** As of December 31, 2024, Everstream was levered approximately 21.4 times based on total net debt of \$967.1 million and EBITDA of \$45.2 million. The Debtors do not believe their current balance sheet is sustainable over the long term. The Debtors have approximately \$1.06 billion in aggregate funded debt. Over the last three years, the Debtors' cash interest expense with respect to the Prepetition Credit Agreements⁶ was as set forth below:

Fiscal Year	Cash Interest Expense
2022	\$46.4 million
2023	\$42.1 million
2024	\$5.7 million

43. **Network Overbuild and Underperforming Contracts.** As noted above, Everstream has invested significant capital to expand its footprint and offerings with the goal of achieving greater penetration in established and fast-growing markets and becoming a more competitive regional fiber provider in a highly competitive industry. Between 2019 and 2022, Everstream entered into certain strategic, growth-driven transactions primarily involving the construction of new route miles through the Midwest into the Northeast. During this period, Everstream added over 10,000 miles of new route miles to its Fiber Network and increased its total route miles of fiber by 80%. In addition to upfront costs, this expansion saddled the Company with significant annual IRU Agreement obligations with up to 20-year terms.

⁶ The Company has not had to repay any principal during such time.

44. Everstream expected that its strategic expansion of the Fiber Network from the Midwest into the Northeast would result in materially increased revenues. However, the expansion proved to be complex and costly and resulted in fewer acquisition opportunities than expected. Among other things, the Company contracted with certain key customers to build out its Fiber Network in exchange for commitments from such customers to purchase a material portion of their fiber services from Everstream in such geographies. In addition to requiring significant capital to build out the Fiber Network, certain changes by customers to the agreed-upon architecture resulted in significantly higher costs and delays in completing the build out. Moreover, as parts of the network expansion necessarily ran through rural areas, the Company saw fewer customer acquisition opportunities than originally anticipated.

45. **Industry Headwinds.** The market for the connectivity solutions the Debtors offer is highly competitive, and industry-wide investment in new capacity over the past several years has culminated in significant pricing pressure. Wholesale and wireless carriers have several fiber providers vying for their business in each market. As a regional fiber company seeking to do business with such large customers, Everstream has faced stiff competition in trying to negotiate favorable contract terms. Such competition has resulted in price compression for regional providers like Everstream, greatly impacting revenue and profitability. Everstream has also struggled to keep pace with technological advancements, such as upgrades to newer, faster 5G networks, necessary to meet the capacity demands of larger wholesale and wireless carriers. As wireless providers decommission old towers to install new 5G towers, smaller fiber companies like Everstream that are unable to quickly upgrade their fiber to handle the 5G networks lose valuable recurring revenue from their wireless customers.

46. ***Wind Down of Pennsylvania Market.*** In January 2025, the Company made the difficult decision to discontinue all services in Pennsylvania and the surrounding states (such market, the “**Pennsylvania Market**”) and begin the decommissioning of the Pennsylvania Assets. This decision was the culmination of several factors discussed above, including the challenged architecture of the Pennsylvania Market, underperforming agreements in connection therewith, and the results of the Prepetition Sale Process that yielded no buyers for the Pennsylvania Assets. The Company has already alerted all affected customers to transition off the Fiber Network in the Pennsylvania Market and began the regulatory process necessary to discontinue services therein.⁷ The Company intends to continue and complete such wind down in these chapter 11 cases.

B. Prepetition Restructuring Efforts

1. Stakeholder Engagement and Related Transactions (2023)

47. ***Special Committee Formation (2023).*** In late June 2023, following over \$110 million in a series of equity contributions by the Sponsor since DigitalBridge’s acquisition of AMP and in light of the challenges facing the Company described above, the Company began its review of strategic alternatives with respect to its capital structure and diminishing near-term liquidity. On July 2, 2023, the HoldCo Board appointed Michael Robinson as an independent manager, the OpCo Board appointed Michael Robinson and Gary Begeman as independent managers, and the HoldCo Board and OpCo Board established special committees (each, a “**Special Committee**”) comprised of the same independent managers. The Special Committees were formed to, among other things, review, evaluate, investigate, pursue, and negotiate any

⁷ Everstream Solutions LLC submitted applications to the FCC and the Pennsylvania Public Utility Commission (“PPUC”) to discontinue services in the Pennsylvania Market and filed with both agencies responses proposing to extend the discontinuance date to December 31, 2025 to address customer concerns. The FCC Wireline Bureau approved Everstream Solutions LLC’s application on May 15, 2025. The PPUC agreed to postpone scheduling a prehearing conference for approximately 60 days to give the parties time to pursue a negotiated resolution.

proposal made in respect of, and any terms and conditions with respect to, potential liability management transactions and other strategic alternatives to address the Company's outstanding funded indebtedness and waning near-term cash flow.

48. ***OpCo and HoldCo Forbearance Agreements and Sponsor Equity Contribution (2023).*** In September 2023, in light of, among other things, the Company's diminishing liquidity, the Company, with the approval of the Special Committees, elected not to pay accrued interest and certain commitment fees under the OpCo Credit Agreement and HoldCo Credit Agreement of approximately \$13 million and \$7 million, respectively, due September 29, 2023 (the "**2023 Payment Default**"). Instead, on October 6, 2023, following extensive discussions with the Lenders and each of their respective advisors, the Company and Lenders holding more than 50% of outstanding OpCo Loans and HoldCo Loans, respectively (together, the "**2023 Forbearing Lenders**"), entered into forbearance agreements (together, the "**2023 Forbearance Agreements**"). Pursuant to the 2023 Forbearance Agreements, the 2023 Forbearing Lenders agreed not to exercise any remedies under their respective Prepetition Credit Agreements through October 31, 2023 as a result of, among other things, the 2023 Payment Default and the Company's failure to comply with certain financial covenants, deliver certain audited financial statements, establish and fund certain debt service reserve accounts, and/or maintain certain deposit control agreements, as applicable. In connection with the 2023 Forbearance Agreements, the Sponsor, through its subsidiaries, made an equity contribution of \$12.5 million to the HoldCo Pledgor, which was contributed down to the OpCo Borrower.

49. ***Stakeholder Engagement (2023).*** Prior to and following the execution of the 2023 Forbearance Agreements, the Company remained engaged in extensive discussions with the Sponsor, the Lenders, and each of their respective advisors to build a path toward a consensual

transaction. Engagement with these groups involved, among other things, the provision of a substantial amount of diligence, ongoing communication regarding the Company, its operations, and its prospects, meetings to discuss the Company’s strategic options, and the Company undertaking to pay fees and expenses incurred by the Lenders in connection with such process. The Company’s engagement with these stakeholders increased ahead of the 2023 Forbearance Agreements as set forth above and the 2023 Recapitalization Transactions.

50. ***Recapitalization Transactions (2023).*** On October 24, 2023, following several months of arm’s-length, good faith negotiations, the Company, with the assistance of its advisors and the approval of the Special Committees, entered into a series of transactions with the Lenders and the Sponsor (the “**2023 Recapitalization Transactions**”). Pursuant to the 2023 Recapitalization Transactions, among other things:

- all existing defaults and events of default under the Prepetition Credit Agreements were waived;
- the Initial OpCo Loans—namely, the \$494.5 million term loan, the \$190 million delayed draw term loan, and the \$40 million revolving credit facility, of which \$494.5 million, \$102.4 million, and \$37 million, respectively, were outstanding at the time—were converted into the \$533.9 million OpCo Term Loan and the \$100 million OpCo DDTL with \$533.9 million and \$100 million, respectively, outstanding as of the date thereof;
- the Company obtained a financial covenant holiday, certain cash interest was converted with the consent of the OpCo Lenders to PIK (which conversion resulted in approximately \$83.6 million of liquidity relief from October 2023 to October 2024), and certain additional financial covenants and reporting requirements were imposed;
- the Sponsor, through its subsidiaries, made an equity contribution of \$100 million to the HoldCo Pledgor, which was contributed down to the OpCo Borrower;
- two observers were appointed—one by each of the Lenders—to the HoldCo Board and the OpCo Board, respectively;
- the Company, Sponsor, OpCo Lenders, and OpCo Agent executed a mutual release; and
- the Company, Sponsor, HoldCo Lenders, and HoldCo Agent executed a mutual release.

51. ***Certain Governance Changes.*** On December 15, 2023, following the 2023 Recapitalization Transactions, the Special Committees were disbanded, and Gary Begeman resigned from the OpCo Board. Thereafter, the Company implemented several governance changes, including the appointment of independent managers Patrick Bartels, Melker Sandberg, and Timothy Pohl to the HoldCo Board on December 15, 2023, August 15, 2024, and September 6, 2024, respectively.

2. Stakeholder Engagement and Related Transactions (2024 - 2025)

52. ***Formation of Restructuring Advisory Committee and Special Investigation Committee (2024).*** In late April 2024, the liquidity relief provided by the 2023 Recapitalization Transactions was dissipating, and the Company once again began its review of strategic alternatives with respect to its capital structure and diminishing near-term liquidity. On April 12, 2024, the HoldCo Board formed the HoldCo Restructuring Advisory Committee to, among other things, review, evaluate, discuss, consider, advise, and consult with the Company on any potential restructuring transaction. This mandate was later expanded from recommendation authority to approval authority.

53. As of September 13, 2024, following various governance changes, the HoldCo Restructuring Advisory Committee was ultimately comprised of the following four independent managers: Michael Robinson, Patrick Bartels, Melker Sandberg, and Timothy Pohl. On the same date, the members of the HoldCo Restructuring Advisory Committee were also appointed to the OpCo Board and the OpCo Restructuring Advisory Committee, and a Special Investigation Committee of each of the HoldCo Board, OpCo Board, and Lynx Board was formed. The SIC was initially comprised of independent managers Patrick Bartels, Melker Sandberg, and Tim Pohl and was formed to, among other things, conduct and oversee any investigation of potential claims and causes of action belonging to the Company with respect to current and former

members of the Boards, affiliates, equityholders, officers, and other insiders of the Company, including as may be part of any potential restructuring transaction, and to approve any action, including prosecution or settlement, by the Company with respect thereto. The SIC engaged Richards, Layton & Finger, PA as counsel to assist the committee in fulfilling its mandate. On April 29, 2025, Patrick Bartels and Tim Pohl resigned from their board and committee positions. As of such date, the RAC and the Lynx Board are now comprised of Michael Robinson and Melker Sandberg, and the SIC is now comprised of Melker Sandberg.

54. ***OpCo and HoldCo Forbearance Agreements (2024).*** On September 13, 2024, in light of the potential risk of defaulting on the Company's obligation to provide audited financial statements under the Prepetition Credit Agreements (the "**FS Delivery Default**") and following extensive discussions with the Lenders and each of their respective advisors, the Company and Lenders holding more than 50% of outstanding OpCo Loans and HoldCo Loans, respectively (together, the "**2024 Forbearing Lenders**"), entered into forbearance agreements (together, the "**2024 Forbearance Agreements**") in connection with the same. Pursuant to the 2024 Forbearance Agreements, the 2024 Forbearing Lenders agreed not to exercise any remedies under the OpCo Credit Agreement through October 9, 2024 and the HoldCo Credit Agreement through November 22, 2024, in each case, as a result of, among other things, the FS Delivery Default.

55. ***OpCo Credit Agreement Amendments – Missouri Sale Proceeds and OpCo Super-Priority DDTL (2024 – 2025).*** On October 9, 2024 and February 25, 2025, in light of the Company's liquidity position and to allow the Prepetition Sale Process to continue uninterrupted, the OpCo Loan Parties, with the approval of the RAC, entered into the following two amendments: (i) an amendment to the OpCo Credit Agreement under which the OpCo

Lenders agreed to, among other things, waive the defaults enumerated in the 2024 Forbearance Agreements, allow approximately \$28.1 million of net proceeds from the Missouri Sale—net proceeds that were otherwise required to be used to repay the OpCo Loans—to be deposited into an escrow account in the name of the OpCo Agent that could be drawn by the Company in accordance with an approved budget, convert the remainder of the OpCo Lenders’ cash interest payments to PIK (resulting in an approximately \$36.3 million of additional liquidity relief to the Company), and impose certain milestones on the Company in connection with, among other things, the Prepetition Sale Process; and (ii) an amendment to the OpCo Credit Agreement under which a subset of the OpCo Lenders agreed to provide the OpCo Super-Priority DDTL in an aggregate principal amount equal to \$19 million. In April 2025, the OpCo Lenders agreed to, among other things, extend the maturity date of the OpCo Super-Priority DDTL to May 15, 2025. In May 2025, the maturity date of the OpCo Super-Priority DDTL was further extended to May 31, 2025.

56. In October 2024, the Company also negotiated amendments to the HoldCo Credit Agreement in parallel with the amendments to the OpCo Credit Agreement, largely to mirror the changes being proposed to the OpCo Credit Agreement. In connection therewith, the HoldCo Lenders and OpCo Lenders also required certain changes to the Company’s governance documents. Although the Company was able to reach resolution with the OpCo Lenders as set forth above, the Company was not able to reach resolution with the HoldCo Lenders on the terms of an amendment to the HoldCo Credit Agreement or a further extension of the 2024 Forbearance Agreement. The Company understands that, as of shortly prior to the Petition Date, a subset of the OpCo Lenders now hold all HoldCo Obligations. In connection with such transaction, the Company, at the recommendation of the SIC and with RAC approval, entered into a release

agreement with the Lenders pursuant to which (i) the Company and a subset of the OpCo Lenders released the HoldCo Lenders, the HoldCo Agent, and certain related persons from certain claims and causes of action and (ii) the HoldCo Lenders released the Company, a subset of the OpCo Lenders, the OpCo Agent, and certain related persons from certain claims and causes of action.

57. ***Stakeholder Engagement (2024 – 2025).*** Prior to and following the execution of the 2024 Forbearance Agreements, the Company remained engaged in extensive discussions with the Sponsor, the Lenders, and each of their respective advisors to build a path toward another consensual transaction with the scope of engagement substantially similar to the prior year. The Company's engagement with these stakeholders increased ahead of the 2024 Forbearance Agreements, the 2024 OpCo Credit Agreement amendments, the 2025 OpCo Super-Priority DDTL, and the commencement of these chapter 11 cases. This engagement ultimately paved the way for a baseline transaction that will ensure the Company's business will be able to continue as a going concern during and after these chapter 11 cases.

58. ***Illinois Sale Transaction (May 2025).*** On May 15, 2025, the Debtors consummated the sale of their Illinois Assets to an industry participant. In accordance with the OpCo Credit Agreement, the Debtors deposited approximately \$22 million in net proceeds from such sale (the "**Illinois Sale Proceeds**") into an account in the name of the OpCo Agent for the benefit of the OpCo Lenders. Pursuant to the DIP Facility, the OpCo Lenders have agreed to allow distributions of Illinois Sale Proceeds to the Debtors to fund operations and the expenses of these chapter 11 cases in accordance with an approved budget.

V. First Day Pleadings

59. Contemporaneously herewith, the Debtors have filed with the Court certain First Day Pleadings⁸ seeking orders granting various forms of relief intended to stabilize the Debtors' business operations, facilitate the efficient administration of these chapter 11 cases, and conduct a smooth sale process of the Debtors' business.

60. The First Day Pleadings seek authority to, among other things, obtain postpetition financing, honor wages and benefits obligations to the Debtors' employees, pay claims of certain vendors and suppliers critical to the Debtors' business operations, and ensure the continuation of the Debtors' cash management system and other operations in the ordinary course of business with as minimal interruption as possible on account of the commencement of these chapter 11 cases. I believe that the relief requested in the First Day Pleadings is necessary to give the Debtors an opportunity to work toward a successful going-concern sale that will inure to the benefit of their stakeholders.

61. Several of the First Day Pleadings request authority to pay certain prepetition claims against the Debtors. I understand that Rule 6003 of the Federal Rules of Bankruptcy Procedure provides, in relevant part, that the Court shall not consider motions to pay prepetition claims during the first 21 days following the filing of a chapter 11 petition, except to the extent relief is needed to avoid immediate and irreparable harm. In light of this requirement, the Debtors have narrowly tailored their requests for immediate authority to pay certain prepetition claims to those instances where the failure to pay would cause immediate and irreparable harm to

⁸ Capitalized terms used but not defined herein shall have the meaning ascribed to such term in the applicable First Day Pleading.

the Debtors and their estates. The Debtors will defer seeking other relief to subsequent hearings before the Court.

62. I am familiar with the content and substance of each of the First Day Pleadings. I believe approval of the relief sought in each of the First Day Pleadings is critical to the Debtors' ability to implement their chapter 11 strategy successfully with minimal disruption to their business operations. Obtaining the relief sought in the First Day Pleadings will permit the Debtors to preserve and maximize the value of their estates for the benefit of all of their stakeholders. The First Day Pleadings include the following:

A. Administrative Motion Requesting Immediate Relief

1. Creditor Matrix Motion

63. Pursuant to the *Emergency Motion of Debtors for Order (I) Authorizing Debtors to (A) File Consolidated Creditor Matrix and Consolidated List of 30 Largest Unsecured Creditors and (B) Redact Certain Personal Identification Information, (II) Approving Form and Manner of Notifying Creditors of Commencement of Chapter 11 Cases and Other Information, and (III) Granting Related Relief* (the "**Creditor Matrix Motion**"), the Debtors request (i) authority to (a) file a consolidated creditor matrix (the "**Creditor Matrix**") and a consolidated list of the Debtors' 30 largest unsecured creditors and (b) redact the Personal Information (as defined below) in the Creditor Matrix, (ii) approve the form and manner of notifying creditors of the commencement of these chapter 11 cases and other information (the "**Notice of Commencement**"), and (iii) related relief.

64. As of the Petition Date, the Debtors estimate they have approximately 1,000–1,500 potential creditors and parties in interest (on a consolidated basis) in these chapter 11 cases. Additionally, a significant number of creditors may be shared between the Debtors. Therefore, I believe that filing a single Consolidated Creditor Matrix in lieu of a creditor list for

each Debtor entity will help alleviate administrative burden, costs, and the possibility of duplicative service.

65. I believe that cause exists to authorize the Debtors to redact the home addresses and any other sensitive, identifying information to be redacted in the Debtors' discretion of natural persons (the "**Personal Information**") in any paper filed or to be filed with the Court in these chapter 11 cases, including the Consolidated Creditor Matrix and any other documents, such as affidavits of service and schedules of assets and liabilities and statements of financial affairs. Disclosure of the Personal Information poses a risk to these individuals because, among other things, such information could be used to perpetrate identity theft or locate survivors of domestic violence, harassment, or stalking. With over a thousand creditors, the Debtors cannot reasonably know with sufficient certainty whether disclosure of an individual party's Personal Information could potentially jeopardize their safety.

66. The Debtors seek authority to publish, as soon as practicable, the Notice of Commencement once in the national edition of *The New York Times*. I believe that publication will efficiently notify those creditors, equityholders, and other parties in interest that do not receive the Notice of Commencement by mail of the commencement of these chapter 11 cases.

67. For the foregoing reasons, I believe good cause exists to grant the relief in the Creditor Matrix Motion.

B. Operational Motions Requesting Immediate Relief

1. Cash Management Motion

68. Pursuant to the *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Continue Using Existing Cash Management System, Bank Accounts, and Business Forms, (B) Implement Ordinary Course Changes to Cash Management System, and (C) Honor Certain Related Prepetition Obligations, (II) Granting Administrative Expense Priority*

for Postpetition Intercompany Claims, (III) Extending Time to Comply with Requirements of 11 U.S.C. § 345(b), and (IV) Granting Related Relief (the “**Cash Management Motion**”), the Debtors request (i) authority to (a) continue using their existing Cash Management System, Bank Accounts, and existing business forms, (b) implement changes to their Cash Management System in the ordinary course of business, including opening new or closing existing Bank Accounts, and (c) honor certain prepetition obligations related to the Cash Management System, (ii) administrative expense priority for Intercompany Claims, (iii) an extension of time to comply with certain requirements of section 345(b) of the Bankruptcy Code, and (iv) related relief.

69. I understand that the Cash Management System is tailored to meet the Debtors’ operating needs as a builder, owner, and operator of business-only fiber optic networks. The Cash Management System is composed of 32 Bank Accounts. The Debtors maintain 16 accounts at PNC Bank, 12 accounts at Webster Bank, three accounts at JP Morgan, and one account at Western Alliance Bank. This Cash Management System enables the Debtors to collect and disburse cash generated by their business effectively and efficiently, pay their financial obligations, centrally control and monitor corporate funds and available cash, comply with the requirements of their financing agreements, reduce administrative expenses, and obtain accurate account balances and other financial data. Accordingly, I believe that it is critical for the Cash Management System to remain intact during these chapter 11 cases to ensure seamless continuation of transactions and uninterrupted collection of revenues.

70. I understand that all but three of the Debtors’ active Bank Accounts are maintained at financial institutions that are Authorized Depositories. Moreover, all of the Debtors’ Bank Accounts are located in the United States and are insured by the Federal Deposit Insurance Corporation (“**FDIC**”). To the extent that any of the Debtors’ Bank Accounts are located at

financial institutions that have not executed a UDA with the U.S. Trustee, I understand that the Debtors do not anticipate the account balances will exceed the FDIC insurance limit of \$250,000 for any substantial amount of time during these chapter 11 cases and will promptly transfer any amounts above such limit, if any, from the non-UDA accounts to UDA accounts during the pendency of these chapter 11 cases. Thus, I believe that any funds that are deposited in the Bank Accounts are secure, and, therefore, the Debtors are in compliance with section 345 of the Bankruptcy Code with respect to such Bank Accounts. Nevertheless, out of an abundance of caution, to the extent that the Bank Accounts and Cash Management System are inconsistent with the requirements of section 345(b) of the Bankruptcy Code, the Debtors shall have 45 days following the Petition Date in which the Debtors have to either come into compliance with section 345(b) of the Bankruptcy Code or to make other arrangements that would be acceptable to the U.S. Trustee.

71. I also understand that, in light of the Debtors' corporate structure, the Cash Management System relies, in part, on the Debtors' ability to engage in various Intercompany Transactions in the ordinary course of business. Although the Debtors historically do not track Intercompany Claims, in anticipation of the filing of these chapter 11 cases, the Debtors implemented a process to track Intercompany Transactions on a go-forward basis. I believe the ability of the Debtors to continue engaging in such Intercompany Transactions is crucial to their continued operations.

72. If the Debtors are required to alter the way in which they collect and disburse cash throughout the Cash Management System, I believe their operations would experience severe disruptions, which ultimately would frustrate the Debtors' ability to effectuate their chapter 11 objectives and maximize the value of their estates. Based on the foregoing, I

believe that the relief requested in the Cash Management Motion is in the best interest of the Debtors, their estates, and all parties in interest and should be approved.

2. Employee Wages Motion

73. Pursuant to the *Emergency Motion of Debtors for Order (I) Authorizing Debtors to (A) Pay Prepetition Wages, Salaries, Employee Benefits, and Other Obligations and (B) Continue Compensation and Benefits Programs in Ordinary Course, and (II) Granting Related Relief* (the “**Employee Wages Motion**”), the Debtors request (i) authority to (a) pay Employee Compensation Obligations and Employee Benefit Obligations and related expenses, fees, and costs attendant to the foregoing, including amounts owed to taxing authorities and third-party administrators (collectively, the “**Employee Obligations**”) and (b) maintain, continue to honor, and pay amounts with respect to the Debtors’ business practices, programs, and policies for their Employees as such were in effect as of the Petition Date and as such may be modified or supplemented from time to time in the ordinary course of business and (ii) related relief.

74. I understand that, as of the Petition Date, the Debtors collectively employ approximately 280 Employees in six states across the Midwestern and Northeastern regions of the United States, of which approximately 270 are Full-Time Employees and approximately 10 are Part-Time Employees. I also understand most Employees are salaried, with approximately 70 Employees paid hourly, and that none of the Debtors’ workforce is unionized. I further understand that, in addition to the Employees, the Debtors rely on services from the Supplemental Workforce, which is comprised of approximately five independent contractors. It is my understanding that the Employees and Supplemental Workforce are responsible for ensuring, among other things, that the Debtors’ sales, technology, engineering, and operational segments continue to run smoothly.

75. As described more fully in the Employee Wages Motion, I understand that, in the ordinary course of business, the Debtors incur and pay various obligations related to, among

other things, (i) compensation of the Employees and Supplemental Workforce, (ii) reimbursement of business-related expenses incurred by Employees, (iii) bonus programs offered to eligible Employees, (iv) deductions withheld from payroll on behalf of the Employees as well as the Debtors' tax liabilities as an employer, and (v) payroll processing fees. It is my understanding that, as of the Petition Date, the Debtors owe or must remit to the appropriate third parties approximately (i) \$940,000 on account of prepetition payroll obligations, including accrued but unpaid wages, salaries, and commissions, and \$10,000 on account of Supplemental Workforce Obligations, (ii) \$28,000 on account of Employee Expenses and Reimbursements, (iii) \$400,000 on account of prepetition Withholding Obligations, and (iv) \$9,000 on account of Payroll Processing Fees. I also understand that, as of the Petition Date, the Debtors do not owe any outstanding amounts on account of the Employee Bonus Programs or KERPs.⁹

76. I further understand that, in the ordinary course of business, the Debtors also offer Employees various benefit plans and programs, including (i) paid time off, (ii) health and welfare benefits, including various types of insurance to promote the health and wellbeing of the Debtors' Employees, (iii) a 401(k) retirement savings plan, and (iv) non-Insider severance. It is my understanding that, as of the Petition Date, the Debtors owe approximately (i) \$230 on account of the Health and Welfare Benefits and (ii) \$26,000 on account of the Retirement Benefit. I also understand that, as of the Petition Date, the Debtors estimate an aggregate of approximately \$575,000 in Employee Leave Benefits have accrued, some of which may become payable during the chapter 11 cases, although the amount is dependent upon when Employees take time off and/or

⁹ As further discussed in the Employee Wages Motion, I understand that prepetition payments made to Key Employees under the KERPs totaled an aggregate of approximately \$6.7 million between May 2024 and May 2025.

their employment is terminated. I further understand that, as of the Petition Date, the Debtors do not owe any outstanding amounts on account of Non-Insider Severance.

77. I believe the relief sought in the Wages Motion represents a sound exercise of the Debtors' business judgment and is necessary to avoid immediate and irreparable harm to the Debtors' estates. Without this relief, otherwise loyal Employees may seek other employment opportunities, perhaps with the Debtors' competitors. Employee attrition would cause the Debtors to incur additional expenses to find appropriate and experienced replacements, severely disrupting the Debtors' operations at this critical juncture and putting at risk the Debtors' ability to maintain continuity of their business while pursuing the most value-maximizing sale transaction of all or substantially all of the Debtors' assets for the benefit of the Debtors' estates and all stakeholders in these chapter 11 cases.

78. I also believe that any delay or failure to pay the prepetition Employee Obligations could irreparably impair the morale of the Debtors' workforce at a time when their dedication, confidence, retention, and cooperation are most crucial. I understand the majority of the Debtors' Employees rely exclusively on their compensation and benefits to satisfy their daily living expenses and support their families. Therefore, failure to pay the Employee Compensation Obligations could also inflict a significant financial hardship on the Employees and their families. Similarly, if the Debtors do not continue to honor their various obligations under the Employee Benefits Programs, many Employees may lose access to vital health coverage.

79. I further believe the Debtors require the services provided by the Supplemental Workforce and the Staffing Agency. It is my belief that the Employees' and Supplemental Workforce's skills and knowledge of the Debtors' infrastructure and operations are essential to ensuring a smooth transition into chapter 11 and continuation of the Debtors' business

during the ongoing marketing, sale, and wind-down processes. The Supplemental Workforce provides fundamental services in key areas, such as finance, accounting, employee training, and operations. Failure to timely pay the Supplemental Workforce Obligations would endanger the Debtors' prospects of successful chapter 11 cases and cause widespread negative effects throughout the Debtors' business.

80. As of the Petition Date, I understand the Debtors estimate they owe, in the aggregate, approximately \$1,387,000 on account of outstanding prepetition Employee Compensation Obligations and approximately \$601,230 on account of outstanding prepetition Employee Benefits Obligations. For the reasons set forth above, I believe that the relief sought in the Employee Wages Motion is necessary to avoid immediate and irreparable harm to the Debtors' estates.

3. Critical Vendors Motion

81. Pursuant to the *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Payment of Certain Prepetition Claims of Critical Vendors, Lien Claimants, and 503(b)(9) Claimants, (II) Confirming Administrative Expense Priority of Undisputed Outstanding Prepetition Orders, and (III) Granting Related Relief* (the "**Critical Vendors Motion**"), I understand the Debtors request authority to pay certain amounts to Critical Vendors, Lien Claimants, and 503(b)(9) Claimants (each as defined in the Critical Vendors Motion, and together, the "**Trade Claimants**") and to pay prepetition amounts related to Outstanding Prepetition Orders.

82. I understand the Debtors are requesting authority to pay Trade Claims in an aggregate amount not to exceed (i) \$10.5 million, upon entry of the Proposed Interim Order, to be used to satisfy Trade Claims that will become due during the period between the Petition Date and the final hearing on the Motion (estimated to be 30 days after the Petition Date)

(the “**Interim Period**”) and (ii) \$13.6 million, upon entry of the Proposed Final Order, which includes amounts paid under the Proposed Interim Order (collectively, the “**Trade Claim Cap**”).

83. The following table summarizes the amounts of Trade Claims per category the Debtors are requesting authority to pay pursuant to the Critical Vendors Motion on an interim and final basis:

Category of Trade Claims	Description of Services Provided	Interim Relief Requested	Total Relief Requested (Inclusive of Interim Amount)
Critical Vendor Claims	Specialized suppliers of goods and services that are critical to maintain the Debtors’ day-to-day operations, or which are sole or limited-source providers of goods and services necessary for the uninterrupted operations of the Debtors’ business.	\$8,530,000	\$11,610,000
Lien Claims	Suppliers and warehousemen of goods utilized by or provided to the Debtors that may assert mechanics, possessory, or other similar liens, absent payment.	\$490,000	\$490,000
503(b)(9) Claims	Suppliers that provided goods to the Debtors that were received within the 20 days prior to the Petition Date.	\$1,450,000	\$1,450,000
Total Trade Claims:		\$10,470,000	\$13,550,000

84. Debtors’ Business & Trade Claimants. As a leading U.S. builder, owner, and operator of business-only fiber optic networks, the Debtors provide their diverse customer base, including major telecommunications carriers and large multinational enterprises, with enterprise-grade fiber and data services. Such services include dedicated internet access, dark fiber, Ethernet, wavelength, voice, managed wide area network, and data center solutions. In the ordinary course of business, the Debtors rely on a broad network of Trade Claimants to provide

the Debtors with essential goods and services. These essential goods and services include physical equipment, maintenance services, software, and supplies.

85. I believe that many of the Trade Claimants would likely refuse to continue doing business with the Debtors if such Trade Claimants are not paid outstanding prepetition amounts. Such refusals would cause significant disruption to the Debtors' remaining operations, which would negatively affect the Debtors' ability to service their customer contracts. As set forth in greater detail herein, the Debtors commenced these chapter 11 cases to pursue value-maximizing transactions for the benefit of all stakeholders. With the Stalking Horse APA in hand and the continuation of the Postpetition Sale Process, it is more important than ever that the Debtors continue to honor payments to Trade Claimants, keep the business stabilized, and avoid any business disruption that would be value-destructive for all parties in interest.

86. Additionally, certain of the Trade Claimants provide custom equipment and services, which limits the number of potential providers of the applicable services. I believe that even where alternative vendors may exist, the time and costs associated with switching from one vendor to another could irreparably harm the Debtors' sale efforts and ability to realize the highest possible value for all stakeholders. Further, the Debtors' relationships with certain of their Trade Claimants have grown increasingly strained in the months leading up to the Petition Date. The Debtors anticipate that this increased pressure from vendors will accelerate as a result of the commencement of these chapter 11 cases. Due to their diminishing liquidity, the Debtors have had to stretch vendor payables in an unprecedented fashion. Failure to pay the Trade Claimants would likely create a crisis in confidence among such vendors and, consequently, the Debtors' customers. That, I believe, would undermine the Debtors' sale process to the detriment of its stakeholders.

87. Continuing certain of these key business relationships throughout these chapter 11 cases will help to preserve the value of the Debtors' estates as they seek to sell substantially all of their assets.

a. Critical Vendors

i. Overview

88. The Debtors rely on a network of telecommunications providers, equipment suppliers, construction vendors, locating services, and business and administrative vendors to provide the goods and services necessary to facilitate their operations. The goods and services these vendors provide are invaluable to the Debtors' operations, and certain vendors are (i) sole- or limited-source suppliers of certain goods and services that support the Debtors' daily operations and their ability to deliver services to customers and/or (ii) cannot easily be replaced without significant disruptions to the Debtors' business. Although the Debtors contract for goods and services from certain vendors pursuant to discrete agreements, in some cases the terms of those agreements do not ensure ongoing provision of goods and services for any meaningful period of time. And in other cases where vendors are required by contract to continue providing goods or services, even a slight delay occurring in the time it takes the Debtors to initiate enforcement proceedings could cause significant disruption to the Debtors' business. If Critical Vendors were to cease performance, even for a short period, the Debtors would be unable to guarantee the consistency of their own services to customers.

89. Moreover, the Debtors' business is highly regulated by federal and state regulatory agencies. If the Debtors are forced to stop services because a vendor were to cease performance, the Debtors may face regulatory consequences, including fines under some circumstances. In an industry that relies on instantaneous and real-time connection, even the slightest delay in the Debtors' supply chain would disrupt operations.

ii. Critical Vendor Process

90. In light of these considerations, a team from the Debtors, with the assistance of their advisors, spent significant time and effort leading up to the Petition Date reviewing and analyzing their books and records, consulting operation managers and purchasing personnel, reviewing contracts, and analyzing applicable law, regulations, and historical practices to identify the universe and type of vendors that supply the products and services most vital to the Debtors' anticipated sale efforts. Without vendors that provide such critical goods and services, the Debtors will not be able to service their customers effectively, which would risk significant reduction to the Debtors' value. To that end, the Debtors identified the Critical Vendors pursuant to the following criteria:

- The Debtors first identified all vendors that supply goods and services used in the Debtors' operations. Of these vendors, the Debtors then analyzed whether the failure to pay the prepetition claims of such vendors would, in the Debtors' business judgment, result in a substantial risk that such vendors may refuse to provide goods or services to the Debtors postpetition; and
- The Debtors then identified which of the vendors:
 - (a) are sole source or limited source suppliers of goods and services necessary for operations to continue undisrupted;
 - (b) provide essential goods and services for which it would be impossible or prohibitively costly, impractical, disruptive, or imprudent to find timely alternative sources of supply that can provide requisite volumes of similar goods or services on equal (or better) terms and in a reasonable time;
 - (c) have prepetition claims that would be exceeded by the costs to the Debtors to replace such vendor;
 - (d) if not paid, would present an unacceptable risk to the Debtors' remaining operations;
 - (e) are currently refusing or are able or likely to refuse to supply the Debtors with goods or services without payment up front; or
 - (f) cannot be compelled by an agreement with the Debtors to continue performing on prepetition terms.

91. As a result of this analysis, the Debtors identified the universe and type of vendors whose support is essential to the Debtors' ability to preserve and enhance value through the seamless transition of their operations into chapter 11.

92. I believe the Debtors' inability to pay such Critical Vendors immediately at the outset of these chapter 11 cases would prevent the Debtors from continuing to meet customer expectations, which in turn could be fatal to the Debtors' objectives in these chapter 11 cases.

iii. Critical Vendor Categories

93. The Debtors rely on a number of vendors to support and maintain their Fiber Network and provide customers with consistent service. Such vendors include Telecoms, Equipment Vendors, Locating Services, and Business and Administrative Vendors (each as defined below). The Debtors estimate that, as of the Petition Date, approximately \$11.6 million is outstanding on account of the Critical Vendor Claims, approximately \$8.5 million of which is due or will become due between the Petition Date and the final hearing on the motion (the "**Interim Period**").

94. Telecoms. The success of the Debtors' business is based, in large part, on ongoing relationships with certain telecommunications service providers (collectively, the "**Telecoms**") whose services and networks are necessary for the Debtors to deliver their connectivity solutions to customers. Specifically, these services include access to critical networks in forms of dark fiber leases, tower and colocation leases, pole attachment and conduit rentals, cross connects, network peering, and IRU agreements. To procure such services, the Debtors utilize established telecommunication networks maintained by the Telecoms.

95. The ability to leverage the services of the Telecoms is integral to the Debtors' operations, and any interruption would cause irreparable harm to the Debtors' business. The network infrastructure supported by the Telecoms consists of both core backbone networks

and peripheral networks for the Debtors; therefore, any interruption caused by nonpayment to these vendors could result in large-scale, multi-state network outages. In some instances, such an outage could potentially cause the Debtors to be in breach of regulatory requirements to provide connectivity for government and emergency services which could in turn result in fines. In addition, Telecoms provide a unique connectivity and service platform that cannot be easily replicated by other providers.

96. Even if the Debtors desired to replace one of the Telecoms, it is my belief that doing so would be impracticable due to the cost and lead times required to engineer, install, test, and activate the circuits necessary for operation. It would take years for the Debtors to formulate a comparable network and migrate their existing customers onto any such platform, and the Debtors would be largely unable to operate during any such a transition. Without the guaranteed continuity of the platform provided by the Telecoms, the Debtors risk losing their ability to provide services to their customers. Certain of the Telecoms also represent key wholesale and wireless customers for the Debtors. Failure to pay these vendors could tarnish the Debtors' reputation and lead to a significant loss of crucial go-forward wholesale and wireless revenues. Any interruption by one of the Telecoms, regardless of its brevity or scale, would significantly jeopardize the Debtors' entire business platform and, as a result, its ongoing sale process.

97. Although the Debtors contract for certain services from certain of the Telecoms pursuant to discrete agreements, the terms of some such agreements provide the Telecoms with discretion to stop providing such services: (i) a portion of the Telecom agreements may be terminated at will by the Telecoms in their entirety or in respect of new orders, either immediately or on short notice, and (ii) certain of such agreements are scheduled to expire during the pendency of these chapter 11 cases. Additionally, certain of the Telecom agreements govern

only a portion of the Debtors' overall relationship with a given Telecom. I therefore understand the Telecoms may seek or threaten to discontinue service absent payment of their prepetition claims, and the Debtors' enforcement of certain contracts would not guarantee uninterrupted services.

98. Equipment Vendors. The Debtors rely upon relationships with equipment suppliers (the "**Equipment Suppliers**") and maintenance vendors (the "**Equipment Maintenance Vendors**") and together with the Equipment Suppliers, the "**Equipment Vendors**") to provide and maintain high-speed fiber connectivity, data center access, and video services to customers. The equipment provided by Equipment Vendors is highly specific to the Debtors' carrier-grade network and is instrumental to the Debtors' ability to provide consistent connectivity to customers.

99. All of the Debtors' equipment, either at data centers, central offices, or along the Fiber Network routes, is sourced from only a handful of Equipment Suppliers. Certain of the Debtors' equipment is only compatible with specific equipment sourced from vendors for which there is no suitable substitute. Replacing such custom equipment with equipment from new vendors could require a substantial conversion of core infrastructure already in place. Undertaking such conversions, to the extent they are even possible, would be a drawn-out, months-long process that would likely delay and otherwise impact the Debtors' sale process and result in significant incremental costs.

100. In general, the Debtors contract with the Equipment Vendors on a purchase order basis to procure certain equipment for specific customer projects and periodically replenish certain equipment inventory stores for future network repair and maintenance work. The Equipment Maintenance Vendors maintain the Debtors' equipment routinely (subject to certain

maintenance provisions within a master services agreement or as part of a separate maintenance contract) and on an as-needed basis in the event of equipment failure and error. I believe that absent payment of their prepetition claims, the Equipment Vendors may seek or threaten to cease performance, and the Debtors' enforcement of contracts alone would be insufficient to guarantee continued performance.

101. Construction Vendors. To provide customers with uninterrupted service, the Debtors rely on telecommunications engineering and construction companies to build and maintain the Debtors' fiber and related infrastructure (the "**Construction Vendors**"). These third-party service providers consult and engage in ongoing network expansion, capacity upgrades required under certain key customer contracts, utility pole make-ready work, and other maintenance work. Construction Vendors serve a crucial role in supporting the ongoing health and continuous improvement (or "hardening") of the Debtors' network infrastructure to minimize disruption to customers.

102. I believe that without these services, the Debtors would be unable to provide their customers with reliable and secure network connectivity. Based on previous communications and the Company's experience with Construction Vendors, I believe that, despite contractual agreements, certain Construction Vendors may seek or threaten to cease performance absent payment of their prepetition claims. Any cessation of the Construction Vendors' services due to the Debtors' failure to pay prepetition claims or the filing of these chapter 11 cases would have a direct and immediate impact on the Debtors' ability to provide customers with reliable fiber connectivity and the Debtors' ability to pursue the value-maximizing sale process.

103. Generally, the Debtors procure Construction Vendor services on a purchase order, or scope of work, basis pursuant to master service agreements. If a Construction Vendor

ceases to perform on account of prepetition amounts owed, the Debtors would need to source an alternative vendor to complete the project, likely at an incremental cost, resulting in significant delay and harm to the Debtors' estates. I believe that Construction Vendors may seek or threaten to cease performance service if the Debtors fail to pay their prepetition claims, and the Debtors' enforcement of contracts alone would be insufficient to guarantee continued performance. The Debtors cannot afford to take such a risk.

104. Locating Services. The Debtors rely on several key vendors that provide locating services (the "**Locating Services**") by identifying and marking underground utility lines to prevent damage to the Debtors' network which could be caused by an external party inadvertently cutting the Debtors' fiber. In such case, the Debtors would have to pay 100% of the damages and repairs to the network. Locating Services also ensure that the Debtors are providing their employees and other service providers a safe work environment. State law requires the Debtors to utilize Locating Services. Accordingly, any inability to continue payments to the Locating Services could cause the Debtors to run afoul of their legal obligations and potentially incur fines and other state and federal penalties. The Debtors pay for Locating Services on a month-to-month, as-needed basis. Accordingly, I believe the Locating Services may discontinue service absent payment of their prepetition claims.

105. Business and Administrative Vendors. In the ordinary course, the Debtors require the efforts of certain specialized vendors that allow the Debtors to conduct day-to-day operations (the "**Business and Administrative Vendors**"). The Business and Administrative Vendors provide the Debtors with, among other things, right of entry access, consulting, staffing services, software and IT systems, marketing and sales services, office materials, hardware, logistical goods, facilities maintenance, and customer support.

106. Many of the Business and Administrative Vendors provide unique goods and services that would be difficult, if not impossible, to replace without incurring significant switching costs or significant disruption to the Debtors' business, and without them, the quality of the Debtors' services would be seriously compromised. In some cases, few alternatives to the Business and Administrative Vendors exist, and the services they provide, including, for example, integrated cloud servicing platforms, enterprise resource planning systems, network software security systems, and IT hardware and maintenance services, are specifically designed for the Debtors' platforms, which could take several months to a year to replace. In addition, the Debtors utilize several third-party sales vendors that are essential to the Debtors' ability to proactively market their products and which provide substantial assistance to the Debtors in onboarding and servicing customers. Migrating to an alternative for any of the Business and Administrative Vendors would be prohibitively expensive and would take months to complete, resulting in intermittent business disruption. Further, the Debtors anticipate that certain vendors may seek or threaten to discontinue service. I believe any such interruption could cause material, immediate, and irreparable harm to the Debtors' day-to-day operations and overall going-concern viability. Importantly, although certain of the Business and Administrative Vendors have contracts with the Debtors, many of these contracts have short durations.

107. I thus believe that if the Debtors were to refuse or delay payment of their Trade Claims, many of the Business and Administrative Vendors would have no obligation to continue providing their crucial services on a go-forward basis.

b. Lien Claimants

108. The Debtors routinely do business with Lien Claimants, who perform and provide various goods and services for the Debtors, including construction materials, network equipment and maintenance, engineering services, storage, and warehousing, all of which are

necessary for the Debtors' business. As of the Petition Date, the Debtors estimate that approximately \$14.5 million worth of Debtor-owned construction materials, primarily fiber cables, are physically stored with certain Lien Claimants, specifically Construction Vendors and Equipment Suppliers. The Debtors estimate that, as of the Petition Date, approximately \$490,000 is outstanding on account of Lien Claims, approximately all of which is due or will become due during the Interim Period.

109. I believe that the Lien Claimants' possession and retention of the Debtors' goods and supplies, or enforcement of a mechanic's lien, would likely disrupt the Debtors' operations and the Debtors' sale process and affect the Debtors' ability to administer these chapter 11 cases efficiently. I understand that certain Lien Claimants are landlords or landowners of property where the Debtors occupy and store business materials, furniture, fixtures, and crucial network equipment. In the event these claims remain unpaid, the Lien Claimants could attempt to assert liens or otherwise impede the Debtors' use of property until their claims are satisfied and their liens redeemed. Failure to meet payment obligations to these Lien Claimants may give rise to an attempt from these vendors to assert liens on the Debtors' stored network equipment, therefore potentially blocking the Debtors' access to that equipment and delaying critical network maintenance and repairs. I believe that the Lien Claimants' possession and retention of the Debtors' goods and supplies, or enforcement of a mechanic's lien, would disrupt the Debtors' operations, disrupt the Debtors' sale process, and affect the Debtors' ability to efficiently administer these chapter 11 cases. The cost of such disruption to the Debtors' estates in many cases would likely be greater than the applicable Lien Claims.

c. 503(b)(9) Claimants

110. The Debtors may have received certain inventory, goods, and/or materials from the 503(b)(9) Claimants within the 20 days immediately preceding the Petition Date. The

Debtors estimate that, as of the Petition Date, approximately \$1.5 million is outstanding on account of the 503(b)(9) Claims, approximately all of which is due or will become due during the Interim Period. The Debtors obtain much of their goods and equipment from such claimants on an order-by-order or as-needed basis. As a result, a 503(b)(9) Claimant may refuse to fulfill new orders without payment of its 503(b)(9) Claim. I believe that such refusal could negatively affect the Debtors' estates as the Debtors' business depends on the steady flow of equipment and supplies to continue operations. Certain of the 503(b)(9) Claimants supply goods or materials critical to the Debtors' ongoing operations. Any interruption in the flow of these goods would be highly disruptive to the Debtors' operations. In light of these consequences, I believe that payment of the 503(b)(9) Claims is essential to avoid disruptions to the Debtors' operations and sale process.

d. Payment of Outstanding Prepetition Orders

111. Prior to the Petition Date, and in the ordinary course of business, the Debtors have certain orders outstanding with various suppliers and vendors for goods or services ordered by the Debtors that will not be delivered until on or after the Petition Date (the "**Outstanding Prepetition Orders**"). It is my understanding that certain of these suppliers and vendors may be concerned that, because the Debtors' obligations under the Outstanding Prepetition Orders arose prior to the Petition Date, such obligations may be treated as general unsecured claims in these chapter 11 cases or may be otherwise adversely affected by these chapter 11 cases. Accordingly, certain vendors may refuse to provide such goods or services to the Debtors (or may recall shipments) purchased pursuant to the Outstanding Prepetition Orders unless the Critical Vendors Motion is granted and an order is entered confirming the Debtors' ability to pay undisputed obligations relating to Outstanding Prepetition Orders in the ordinary course of business.

112. For the reasons set forth herein and in the Critical Vendors Motion, I believe that the relief requested in the Critical Vendors Motion is necessary to avoid immediate and irreparable harm to the Debtors' estates.

4. Taxes Motion

113. Pursuant to the *Emergency Motion of Debtors for an Order (I) Authorizing the Debtors to Pay Certain Prepetition Taxes and Fees and (II) Granting Related Relief* (the "**Taxes Motion**"), the Debtors request authority to satisfy, in the Debtors' sole discretion, all Taxes and Fees (as defined below) due and owing to local, state, and federal taxing authorities (collectively, the "**Taxing Authorities**") that arose prior to the Petition Date, including Taxes and Fees determined by audit or otherwise to be owed for periods prior to the Petition Date.

114. As discussed in the Taxes Motion, in the ordinary course of business, the Debtors are obligated to pay certain taxes and governmental fees, which generally fall into the following categories: (i) property taxes; (ii) utility taxes; (iii) sales and use taxes; (iv) excise taxes; (v) gross receipt and revenue taxes; (vi) USF charges; (vii) emergency service fees; (viii) franchise taxes; (ix) telecom relay service charges; and (x) regulatory and other taxes and fees (collectively, the "**Taxes and Fees**"). In 2024, the Debtors paid approximately \$11.8 million in Taxes and Fees, and I understand that approximately \$6.3 million of the Taxes and Fees relating to the prepetition period will become due and payable after the Petition Date.

115. I believe that the failure to pay the aforementioned Taxes and Fees may cause the Taxing Authorities to take actions that would interfere with the Debtors' continued operations and potentially impose significant costs on the Debtors' estates. These potential actions include asserting liens on estate assets or seeking to lift the automatic stay. Additionally, I understand that failure to satisfy the prepetition Taxes and Fees may jeopardize the Debtors' maintenance of good standing to operate in the jurisdictions in which they do business. Moreover,

to the extent any prepetition Taxes and Fees remain unpaid by the Debtors, I understand that the Debtors' officers and directors may be subject to lawsuits or criminal prosecution. In addition, I am advised that payment of the prepetition Taxes and Fees now will avoid the potential imposition of liens and accrual of interest and unnecessary fees and penalties on such claims, which will preserve the value of the Debtors' estates and maximize distributions available for other creditors. Based on the foregoing, I believe that the relief requested in the Taxes Motion is in the best interest of the Debtors, their estates, and all parties in interest and should be approved.

5. Customer Programs Motion

116. Pursuant to the *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to Honor Certain Prepetition Obligations to Customers and Continue Customer Programs in the Ordinary Course of Business and (II) Granting Related Relief* (the "**Customer Programs Motion**"), the Debtors request (i) authority to maintain and administer, in the ordinary course of business and consistent with past practice, customer-related programs, promotions, and practices and pay and otherwise honor their obligations to customers relating thereto, whether arising prior to or after the Petition Date, as necessary and appropriate in the Debtors' business judgment and (ii) related relief. The Debtors request authority to pay an amount not to exceed \$1.91 million on an interim basis and \$2.31 million on a final basis.

117. Due to the highly competitive nature of the Debtors' industry, the Debtors' success depends upon the support of their customers, as well as their ability to both retain existing customers and attract new customers. To maximize value to customers, the Debtors have maintained and followed, in the ordinary course of business, certain practices and programs for the benefit of their customers, including Customer Promotions, Service Adjustments, Subsidy Programs, and the Customer Referral Program.

118. I understand that, as of the Petition Date, there is approximately \$600,000 in outstanding bill credits issued by the Debtors to customers pursuant to the Customer Promotions, approximately \$1.1 million of Service Adjustments arising from the Debtors' prepetition activity may become due during the pendency of these chapter 11 cases, approximately \$600,000 in accrued reimbursement funds that USAC¹⁰ has issued to the Debtors that have not yet been remitted to eligible participating customers, and approximately \$5,000 of Customer Referral Fees arising from the Debtors' prepetition activity may become due during the pendency of these chapter 11 cases.

119. Many, if not all, of the Customer Programs are standard in the telecommunications industry. The ability to continue administering the Customer Programs without interruption is essential to the Debtors' valuable customer relationships and good will, which will inure to the benefit of all of the Debtors' stakeholders. I believe that if the Debtors are unable to continue the Customer Programs postpetition or honor their prepetition Customer Program obligations, the Debtors risk alienating certain customers, which may then form relationships with the Debtors' competitors. Such harm would amplify the negative effect of customer uncertainty that may arise from the commencement of these chapter 11 cases, which could erode the Debtors' reputation and good will. Additionally, the Customer Programs are essential for attracting new customers and expanding the Debtors' business. Accordingly, I believe the relief requested in the Customer Programs Motion is necessary to avoid immediate and irreparable harm to the Debtors' estates.

¹⁰ I understand that the Debtors participate in government subsidy programs administered by the Universal Service Administrative Company ("USAC") (such programs, the "**Subsidy Programs**"), pursuant to which USAC offers schools, libraries, and rural healthcare providers discounted or subsidized telecommunications services from the Debtors.

6. NOL Motion

120. Pursuant to the *Emergency Motion of Debtors for Interim and Final Orders (I) Establishing Notification Procedures and Approving Restrictions on Certain Transfers of Interests in the Debtors and Claims of Certain Worthless Stock Deductions and (II) Granting Related Relief* filed contemporaneously herewith (the “**NOL Motion**”), the Debtors seek (i) authority to establish the Stock Procedures (as defined in the NOL Motion) to protect the potential value of Tax Attributes (as defined in the NOL Motion) of any Debtor that is regarded as a corporation for U.S. Federal income tax purposes (which for these purposes is limited to Lynx) for use during the pendency of these chapter 11 cases and (ii) related relief. I understand the Stock Procedures impose certain restrictions and notification requirements with respect to (i) the beneficial ownership (including direct and indirect ownership) of Common Stock and any Options, and (ii) any claim of a Worthless Stock Deduction by a Majority Stockholder with respect to the beneficial ownership of Common Stock.

121. As of December 31, 2024, the Debtors (specifically Lynx, as the only Debtor that can accumulate and utilize the Tax Attributes) have (i) approximately \$3.5 million in estimated U.S. federal NOLs, (ii) approximately \$2.8 million in estimated Michigan state NOLs, and (iii) approximately \$1.4 million of tax basis in fixed assets. Accordingly, absent any intervening limitations and depending on future operating results, I understand the Tax Attributes are valuable assets that could reduce Lynx’s overall U.S. federal income tax liability for current and future periods, including during the pendency of these chapter 11 cases. I, therefore, believe the Tax Attributes could translate into future tax savings over time that enhance Lynx’s cash position for the benefit of all parties in interest.

122. The Stock Procedures allow the Debtors to monitor the transfer of, and the claiming of a Worthless Stock Deduction by any Majority Stockholder with respect to, beneficial

ownership of Common Stock. Thus, I believe the Stock Procedures preserve the Debtors' ability to seek the necessary relief if it appears that any such transfer(s) or claim(s) may jeopardize the Debtors' ability to utilize their Tax Attributes. Hence, I believe that the relief requested in the NOL Motion is in the best interests of the Debtors, their estates, and all other parties in interest and should be granted in all respects.

7. Insurance Motion

123. Pursuant to the *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Continue Their Insurance Programs and Surety Bond Program and (B) Pay All Obligations With Respect Thereto and (II) Granting Related Relief* (the "**Insurance Motion**"), the Debtors request (i) authority to (a) continue all Insurance Programs and the Surety Bond Program in accordance with the applicable programs and in the ordinary course of business, (b) pay prepetition and postpetition obligations (including pledging cash collateral) arising under the Insurance Programs and Surety Bond Program, and (c) modify the automatic stay imposed by section 362 of the Bankruptcy Code to the extent necessary to permit the Debtors' employees to proceed with any claims they may have under the Workers' Compensation Programs and (ii) related relief. I understand that approximately \$80,000 of Insurance Obligations relating to the prepetition period will become due and payable after the Petition Date, with approximately \$70,000 becoming due and payable within the 30 days following the Petition Date.

124. In the ordinary course of business, I understand that the Debtors maintain the following programs through several Insurance Carriers: Workers' Compensation Programs, the Cyber Insurance Program, Liability and Property Insurance Programs, Professional Liability Programs, and the Railroad Insurance Program.

125. Under the laws of the various states in which the Debtors operate, I understand that the Debtors are legally and contractually required to maintain certain Insurance Programs, including under state laws mandating that the Debtors maintain workers' compensation coverage for their employees. Specifically, I understand that the Debtors maintain one General Workers' Compensation Policy for all U.S.-based employees, which covers (i) workers' compensation, (ii) employer liability for accident and disease, and (iii) employer liability related to employee benefit programs. For the current coverage period, the Debtors' annual premium under the General Workers' Compensation Policy is approximately \$78,200.

126. I also understand that the Debtors maintain certain Liability and Property Insurance Programs and a Cyber Insurance Program to help manage the various risks associated with their business, including liabilities relating to, among other things, potential data or cyber security breaches, property damage, general liability, crime, employment practices, automobile liability, pollution, and other property-related and legal liabilities, including a variety of excess liability insurance policies. I also understand the Debtors maintain the Railroad Insurance Program for active construction projects over or under railroad tracks. It is my understanding that, as of the Petition Date, premiums and fees totaled, in the aggregate, approximately (i) \$39,900 for the Cyber Insurance Program, (ii) \$311,000 for the Liability and Property Insurance Programs, and (iii) \$2,000 for the Railroad Insurance Program. I further understand that, as of the Petition Date, all premiums related to the Cyber Insurance Program, Liability and Property Insurance Programs, and Railroad Insurance Program have been paid in full.

127. It is my understanding that the Debtors are party to eight insurance policies that provide the Debtors with insurance coverage for, among other things, management liability, fiduciary liability, professional liability, and directors' and officers' liability. I understand that the

Debtors incur premiums under the Professional Liability Programs based upon fixed rates established and billed by the applicable Insurance Carrier, in addition to various deductibles. For the current coverage periods, the premiums for the Professional Liability Programs totaled approximately \$317,500 in the aggregate. I further understand that, as of the Petition Date, all premiums related to the Professional Liability Programs have been paid in full.

128. I further understand that the Debtors utilize two Insurance Brokers, Baldwin Group and CAC Group, to assist the Debtors with the procurement and negotiation of the Insurance Programs and, in most circumstances, remittance of the premium payments to Insurance Carriers on behalf of the Debtors. I understand that the Insurance Brokers earn fees and commissions in exchange for their services. As of the Petition Date, I believe that there are no outstanding prepetition amounts owed to the Insurance Brokers on account of the Brokers' Fees. Due to their familiarity with the Debtors' business, I believe payment of the Insurance Brokers is essential for continuity of service during these chapter 11 cases.

129. I also understand that the Debtors maintain the Surety Bond Program through certain Sureties in the ordinary course of business because the Debtors are required to provide surety bonds to certain third parties to secure the Debtors' payment or performance of certain obligations. I further understand that the Debtors pay the Sureties annual premiums based upon a fixed rate in the aggregate amount of approximately \$66,700 per year and that no such Surety Premium or amounts on account of other Surety Obligations are outstanding as of the Petition Date. It is further my understanding that the Debtors may be asked to pledge cash collateral in the future in order to maintain certain bonds in the Surety Bond Program.

130. In light of the risks applicable to the Debtors' operations and the critical need for the Debtors to protect their assets from such risks, I believe it essential that the Debtors

maintain the Insurance Programs and Surety Bond Program and that they obtain authority to pay all Insurance Obligations and the Surety Obligations (including pledging cash collateral). I believe the Debtors' use of estate funds to pay the Insurance Obligations and Surety Obligations is justified because such obligations are necessary costs of preserving the Debtors' estates. Without insurance coverage, the Debtors may violate applicable regulations and laws, exposing them to significant liability, which exposure could detrimentally impact the Debtors' ability to effectuate their chapter 11 objectives. Further, maintaining surety bonds (including pledging cash collateral as needed) is necessary to the Debtors' continued operations as the Debtors are required, both legally and contractually, to provide a surety bond to secure certain obligations. A failure to continue the Surety Bond Program and to honor Surety Obligations may result in violations of applicable law and breaches under the Debtors' critical contracts, which could be disruptive to the Debtors' operations and impair value for the Debtors' stakeholders. Finally, I believe it is unlikely that the Debtors will be able to renew or replace their existing Insurance Programs and Surety Bond Program on terms more favorable than those currently offered by the Insurance Carriers or the Sureties, as applicable, and the process of establishing new programs would also be burdensome and costly to the Debtors. It is similarly critical that the Debtors have the authority to, in their business judgement, supplement, amend, extend, renew, cancel, or replace their Insurance Programs and Surety Bond Program as needed.

131. Accordingly, I believe the Insurance Programs and Surety Bond Program are essential to the Debtors' operations, as the Debtors would be exposed to significant liability and/or suffer significant interruptions to their business if the Insurance Programs and Surety Bond Program were allowed to lapse or terminate, which could detrimentally impact the Debtors' ability to effectuate their chapter 11 objectives. If the relief requested in the Insurance Motion is not

granted, I believe it would cause immediate and irreparable harm to the Debtors and their estates. Accordingly, I believe the relief requested in the Insurance Motion is in the best interest of the Debtors, their estates, and all parties in interest and should be approved.

8. Utilities Motion

132. Pursuant to the *Emergency Motion of Debtors for Order (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment to Utility Companies, (II) Establishing Procedures for Resolving Objections By Utility Companies, (III) Prohibiting Utility Companies From Altering, Refusing, or Discontinuing Service, and (IV) Granting Related Relief* (the “**Utilities Motion**”), the Debtors request (i) approval of the Debtors' proposed form of adequate assurance of payment to the Utility Companies (as defined below), (ii) establishment of procedures for resolving objections by the Utility Companies relating to the adequacy of the proposed adequate assurance, (iii) prohibition of the Utility Companies from altering, refusing, or discontinuing service to or discriminating against the Debtors on account of the commencement of these chapter 11 cases or outstanding prepetition invoices, and (iv) related relief.

133. As more fully described in the Utilities Motion, in the ordinary course of business, the Debtors incur utility expenses on account of electricity, gas, water, and telecommunications services, sewage and waste disposal, and other utility services (collectively, the “**Utility Services**”) from a number of utility companies (collectively, the “**Utility Companies**”), which the Debtors rely on to provide necessary support to their employees, vendors, and customers. Further, pursuant to certain of the Debtors' lease agreements, certain Utility Services are billed directly to the Debtors' corporate landlord and passed through to the Debtors as part of the Debtors' lease payments. I believe that preserving Utility Services on an uninterrupted basis is essential to the Debtors' ongoing operations and restructuring process. I believe that any interruption in Utility Services—even for a brief period—would likely cause

severe disruption to the Debtors' business. This interruption would negatively impact the Debtors' sale efforts to the detriment of all parties in interest. Therefore, I believe it is critical that Utility Services continue uninterrupted during these chapter 11 cases.

134. My understanding is that the Debtors intend to pay postpetition obligations owed to the Utility Companies in a timely manner in the ordinary course of business. The Debtors expect that cash flows from operations and the DIP Facility will be sufficient to pay postpetition obligations related to their Utility Services in the ordinary course of business. Based on a monthly average for the 12 months prior to the Petition Date, the Debtors estimate that their cost of Utility Services for the next 30 days will be approximately \$377,700. Accordingly, the proposed amount of the Adequate Assurance Deposit will be one half (1/2) of that amount (*i.e.*, approximately \$188,850).

135. The Debtors have a good historical payment record with the Utility Companies. To the best of my knowledge, there are no material defaults or arrearages of any significance for the Debtors' undisputed invoices for prepetition Utility Services, other than payment interruptions that may be caused by the commencement of these chapter 11 cases. I further believe the Adequate Assurance Deposit, in conjunction with the Debtors' ability to pay for future Utility Services in the ordinary course of business, constitutes sufficient adequate assurance to the Utility Companies. Moreover, I believe the proposed Adequate Assurance Procedures are reasonable because they will ensure that the Utility Services continue while providing a streamlined process for Utility Companies to challenge the adequacy of the Proposed Adequate Assurance or seek an alternative form of adequate assurance. As a result, I believe that the relief requested in the Utilities Motion should be granted.

9. DIP Motion

136. As described in the *Emergency Motion of Debtors for Entry of Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, and (V) Granting Related Relief* (the “**DIP Motion**”) and the Higbie Declaration, since 2023, the Debtors’ liquidity position has been deteriorating. Since then, the Debtors and the Prepetition Secured Parties have engaged in a series of transactions, including, among other things, the 2023 Recapitalization Transaction, the Missouri Sale, the Illinois Sale, several forbearances, and the issuance of the Super-Priority DDTL, in an effort to provide the Debtors with liquidity to fund business operations and the prepetition initiatives described herein, such as the Prepetition Sale Process. Despite these efforts, the Debtors have continued to experience diminishing liquidity due to ongoing operational headwinds. The Debtors expect that these operational headwinds will continue and that liquidity will tighten further, including as a result of the commencement of these chapter 11 cases. Accordingly, the Debtors require additional liquidity to meet their operational needs and fund the costs of administering these chapter 11 cases.

137. I, therefore, believe the Debtors require access to DIP Facility, Cash Collateral, and the proceeds of the Illinois Sale to ensure they have sufficient liquidity to implement their chapter 11 strategy, including the Postpetition Sale Process, and wind down of any remaining assets. As of the Petition Date, the Debtors have approximately \$9.6 million cash on hand, and current projections show liquidity decreasing upon the commencement of these chapter 11 cases. Accordingly, without access to additional capital, I do not think the Debtors will have sufficient cash on hand to cover their operating expenses and the costs of these chapter 11 cases.

138. Prior to the Petition Date, the Debtors, with the assistance of their advisors, including a team of professionals at A&M working under my direction, analyzed and evaluated the Debtors' operations and funding needs. This analysis included, among other things, an assessment of (i) the Debtors' near-term financial projections and (ii) the impact of these chapter 11 cases on the Debtors' liquidity, including with respect to the administrative costs and professional fees projected to be incurred during the pendency of these chapter 11 cases.

139. As a result of this analysis, the Debtors, in consultation with their advisors, determined that additional liquidity is necessary to, among other things, (i) support the Postpetition Sale Process, (ii) promote the orderly wind down of any remaining assets, (iii) fund payroll, (iv) satisfy other working capital and operational needs, and (v) pay administrative expenses and other costs associated with the chapter 11 process. Accordingly, the Initial Budget, which is attached to the Interim Order as Exhibit 2, reflects the liquidity needed to fund these chapter 11 cases while maintaining an adequate cushion to account for contingencies that may arise.

140. In light of that and the Debtors' projected cash needs during the expected duration of the chapter 11 cases, the Debtors, with the assistance of their advisors, determined that they would require access to the Illinois Sale Proceeds, Cash Collateral, and approximately \$55 million of new money postpetition financing to finance their operations and maintain sufficient liquidity during these chapter 11 cases during the relevant period and ultimate wind down. Importantly, approval of the proposed DIP Facility will also unlock the Debtors' access to the undrawn net Illinois Sale Proceeds of approximately \$12.5 million, which are currently held by the OpCo Agent for the benefit of the OpCo Lenders. Based on current projections, the Debtors anticipate that the Illinois Sale Proceeds and up to \$5.0 million of financing under the DIP Facility should provide sufficient liquidity during the period prior to entry of the Final DIP Order. As set

forth in the Higbie Declaration, in exchange for providing access to the DIP Facility, Cash Collateral, and the Illinois Sale Proceeds, the DIP Lenders required the roll-up of the Super-Priority DDTL and \$110 million of prepetition OpCo Obligations.

141. The Debtors and their advisors developed and ultimately negotiated the Initial Budget and the amount of the New Money DIP Commitments with the DIP Lenders. The Initial Budget contains line items for categories of cash receipts and necessary disbursements and expenditures expected to be incurred or made during the relevant period in the Initial Budget. I believe the Initial Budget accurately reflects the Debtors' funding requirements and contains all reasonable, necessary, and foreseeable expenses to be incurred in connection with the administration of these chapter 11 cases during the relevant period. I further believe that, consistent with the Initial Budget, with access to Cash Collateral, the Illinois Sale Proceeds, and the proposed DIP Facility, the Debtors will have sufficient liquidity to conduct their chapter 11 cases.

142. For the reasons stated above, I believe that the DIP Facility is in the best interests of the Debtors' estates and is a sound exercise of the Debtors' business judgment.

C. Operational Motions Not Requesting Immediate Relief

1. Omnibus Rejection Motions

143. Pursuant to the following motions, the Debtors request authority to (i) reject the Inactive Tower Leases, Closed Office Leases, and Contracts (each as defined below), each effective *nunc pro tunc* to the Petition Date and (ii) abandon any Remaining Property (as defined below).¹¹

- *First Omnibus Motion of Debtors for Entry of an Order (I) Authorizing Debtors to (A) Reject Certain Unexpired Leases and Executory Contracts*

¹¹ For the avoidance of doubt, Debtors are not seeking the relief requested in the Omnibus Rejection Motions on an emergency basis or at the "first day" hearing of these chapter 11 cases.

(B) Abandon Property in Connection Therewith and (II) Granting Related Relief (the “**First Rejection Motion**”);

- *Second Omnibus Motion of Debtors for Entry of an Order (I) Authorizing Debtors to (A) Reject Certain Unexpired Leases and (B) Abandon Property in Connection Therewith and (II) Granting Related Relief* (the “**Second Rejection Motion**”); and
- *Third Omnibus Motion of Debtors for Entry of an Order (I) Authorizing Debtors to (A) Reject Certain Unexpired Leases and (B) Abandon Property in Connection Therewith and (II) Granting Related Relief* (the “**Third Rejection Motion**,” and together with the First Rejection Motion and the Second Rejection Motion, the “**Omnibus Rejection Motions**”).

144. The Debtors have determined in their business judgment that leases and executory contracts associated with certain inactive telecommunications towers, three office properties, and certain service contracts are unnecessary and burdensome to the Debtors’ estates and should be rejected. Based on my review of the relevant agreements and discussions with certain members of the Debtors’ management team and the Debtors’ advisors, I believe that it is in the best interest of the Debtors’ estates to grant the relief requested.

a. Unexpired Leases

145. As a leading, integrated telecommunications service provider, the Debtors routinely contract with wireless carriers and/or tower companies pursuant to various telecommunications tower leases to gain access to telecommunications towers necessary to provide enterprise-grade fiber and data services to their customers. The Debtors also have several leases for office locations that support their operations.

146. In connection with the wind down of the Pennsylvania Market and the Debtors’ other restructuring efforts, the Debtors, with the assistance of their advisors, began

undertaking a comprehensive analysis and review of the Debtors' lease portfolio in an effort to rationalize their continued operations.¹²

147. As a result of the initial phase of this analysis, the Debtors have decided to exit and reject leases related to: (i) certain inactive telecommunications towers, listed on Schedule 1 of each of the Omnibus Rejection Motions (the "**Inactive Towers**"), that the Debtors no longer utilize and, in light of the wind down of the Pennsylvania Market, do not expect to utilize in the future (the "**Inactive Tower Leases**"); and (ii) three office properties, listed on Schedule 2 to the First Rejection Motion (the "**Closed Offices**"), that the Debtors have recently underutilized or otherwise no longer need due to the wind down of the Pennsylvania Market (the "**Closed Office Leases**," and, together with the Inactive Tower Leases, the "**Leases**"). As of the Petition Date, the Debtors' equipment has been detached and removed from certain of the Inactive Towers, and the Debtors have removed all material property, returned their keys (where applicable), and otherwise vacated the Closed Offices. In addition, on or prior to the Petition Date, I understand the Debtors provided notice to each Lease counterparty of their intention to reject each respective Lease and surrender related property.

148. After carefully evaluating a number of factors, including the past and proposed go-forward utilization of the Leases (or lack thereof), the overall losses that the Debtors have been incurring, and the lack of strategic value in the Debtors' go-forward business plan and restructuring efforts, I believe that it is in the best interests of the Debtors' estates to reject the

¹² Relatedly, due to the wind down of the Pennsylvania Market and other factors, the Debtors will need to reject additional tower leases and contracts in the future, such that the *Motion of Debtors for Entry of an Order (I) Approving Procedures to Reject Unexpired Leases and Executory Contracts, (II) Approving Abandonment of Property in Connection Therewith, and (III) Granting Related Relief* is appropriate to establish efficient rejection procedures, which will save the resources of the Debtors' estates. The Debtors are not seeking the relief requested in such motion on an emergency basis or at the "first day" hearing of these chapter 11 cases.

Leases. Rejecting the Leases will allow the Debtors to avoid the accrual of unnecessary administrative expenses with no foreseeable benefits to the Debtors' estates.

b. Executory Contracts

149. In connection with the Debtors' ongoing review of executory contracts, the Debtors have decided to reject contracts related to: (i) services the Debtors previously provided to a permanently closed hospital, the Homer G. Phillips Memorial Hospital and certain affiliates (the "**Phillips Contracts**"), (ii) software and technology support services that the Debtors no longer utilize from Opmantek Software Pty Ltd (the "**Opmantek Contracts**"), and (iii) software and support services that the Debtors no longer utilize from Myriad360, LLC (the "**Myriad Contracts**," and, together with the Phillips Contracts and the Opmantek Contracts, the "**Contracts**"), each listed on Schedule 3 to the First Rejection Motion. As of the Petition Date, the Debtors provided notice to each Contract counterparty of their intention to reject each respective Contract.

150. After carefully evaluating a number of factors, including the past and proposed go-forward utilization of the Contracts (or lack thereof), the overall losses that the Debtors have been incurring or may incur, and the lack of strategic value in the Debtors' go-forward business plan and restructuring efforts, I believe that it is in the best interests of their estates to reject the Contracts. Rejecting the Contracts will allow the Debtors to avoid the accrual of unnecessary administrative expenses with no foreseeable benefits to the Debtors' estates.

c. Remaining Property

151. In the ordinary course of business, the Debtors accumulated certain assets at the Inactive Towers and Closed Offices, including certain fixtures and equipment. The Debtors have generally removed such assets from the Closed Offices and certain of the Inactive Towers, but certain other assets (the "**Remaining Property**") will be unduly burdensome to remove and

potentially store. The Debtors estimate that the Remaining Property is burdensome to the estates given its value and the costs of retrieving and storing it; therefore, the Debtors would not realize any economic benefit by removing and/or retaining the Remaining Property. Accordingly, the Debtors have requested authority to abandon the Remaining Property at the Inactive Towers and Closed Offices.

152. Therefore, based on my discussions with certain members of the Debtors' management team and the Debtors' advisors, I believe that it is in the best interests of the Debtors and their estates to reject the Leases and Contracts *nunc pro tunc* to the Petition Date and to permit the Debtors to preserve and maximize the value of their estates for the benefit of all stakeholders.

2. Motion to Seal

153. Pursuant to the *Motion of Debtors for (I) Authority to File Certain Information Under Seal for Confidentiality and (II) Related Relief* (the "**Motion to Seal**"), the Debtors request (i) authority to (a) file unsealed, redacted versions of the Bidding Procedures Motion and certain exhibits thereto, the Stalking Horse Agreement, and Exhibit L to the Stalking Horse Agreement (such documents, the "**Designated Documents**"), which include certain commercially sensitive information and obligations, and (b) seal the unredacted versions of the Designated Documents (the "**Sealed Documents**"), (ii) that the Court direct that the Sealed Documents remain under seal and not be made available to anyone without the prior written consent of the Debtors or as otherwise ordered by the Court, and (iii) related relief.

154. My understanding is that the Sealed Documents contain commercially sensitive information that could be used by certain parties in a manner that may impede the Debtors' ability to consummate the transaction contemplated by the Stalking Horse Agreement and carry out these chapter 11 cases. The Debtors request that this information be sealed and redacted on this basis to avoid jeopardizing the Debtors' ability to promote a robust sale process

for their assets and protect the Debtors' ability to consummate the transaction contemplated by the Stalking Horse Agreement. Accordingly, pursuant to Bankruptcy Local Rule 9037-1(d), the Debtors intend to file the Sealed Documents under seal while simultaneously filing the Bidding Procedures Motion, which contains a corresponding description of the commercially sensitive information and a further explanation as to why such information is sensitive.

155. In the Motion to Seal, the Debtors propose providing copies of the Sealed Documents to (i) the Court, (ii) the Clerk of this Court, (iii) the U.S. Trustee, (iv) counsel to the OpCo Agent, the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, (v) counsel to the Stalking Horse Bidder, (vi) counsel to the HoldCo Agent, (vii) counsel to any statutory committee appointed in these chapter 11 cases on a professional eyes only basis, (viii) any potential bidder that signs a non-disclosure agreement with the Debtors, and (ix) any additional party who, upon good faith review of a request, the Debtors consent to receiving the commercially sensitive information contained in the Sealed Documents.

156. For the reasons set forth above, I believe the relief sought by the Motion to Seal is appropriate and necessary to protect the confidential commercial information contained in the Designated Documents.

I declare under penalty of perjury that, after reasonable inquiry, the foregoing is true and correct to the best of my knowledge, information, and belief.

Executed this 28th day of May 2025.

Respectfully submitted,

By: /s/ Justin Schmaltz
Justin Schmaltz, Managing Director
Alvarez & Marsal

EXHIBIT TM-11

ENTERED

June 24, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: §
§ **Chapter 11**
§
EVERSTREAM SOLUTIONS LLC, et al., § **Case No. 25-90144 (CML)**
§
§ **(Jointly Administered)**
Debtors.¹ § **Re: Docket No. 57**

**ORDER ESTABLISHING BIDDING
PROCEDURES RELATING TO SALE OF DEBTORS' ASSETS**

Upon the motion, dated May 28, 2025 (Docket No. 57) (the “**Motion**”),² of Everstream Solutions LLC and its debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”) in the above-captioned chapter 11 cases, pursuant to sections 105(a), 363, 365, 503, and 507 of title 11 of the United States Code (the “**Bankruptcy Code**”), Rules 2002, 6004, 6006, 9007, 9008, and 9014 of the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”), and Rules 2002-1 and 9013-1 of the Bankruptcy Local Rules for the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Local Rules**”), for entry of an order (i) approving the bidding procedures, substantially in the form attached hereto as **Exhibit 1** (the “**Bidding Procedures**”), in connection with the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business and the MO Divested

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, or the Stalking Horse Agreement (each, as defined herein), as applicable.

Business (each, as defined in the Stalking Horse Agreement) (the “**Assets**”), (ii) authorizing the Debtors to designate Bluebird MidWest, LLC, an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator, as the stalking horse bidder (the “**Stalking Horse Bidder**”), (iii) approving the Stalking Horse Bid Protections (as defined in the Motion) proposed to be granted in accordance with the terms and conditions of the Bidding Procedures and the Stalking Horse Agreement, (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling a hearing (the “**Sale Hearing**”) with respect to the approval of a proposed sale transaction to the Successful Bidder or the Back-Up Bidder (each, as defined herein) pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”), (v) authorizing and approving the form and manner of notice of the (a) Debtors’ entry into that certain *Asset Purchase Agreement*, dated as of May 22, 2025 (together with the exhibits thereto, as may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “**Stalking Horse Agreement**”), attached hereto as **Exhibit 2**, which provides for the sale of substantially all of the Assets, other than the PA Business (as defined in the Stalking Horse Agreement) (the “**Stalking Horse Assets**”) to the Stalking Horse Bidder (the “**Stalking Horse Bid**”), (b) Auction, and (c) Sale Hearing, substantially in the form attached hereto as **Exhibit 3** (the “**Sale Notice**”), (vi) approving the procedures set forth herein (the “**Assumption and Assignment Procedures**”) for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases (collectively, the “**Transferred Contracts**”) to the Successful Bidder and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”), (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the

Successful Bidder and of the Debtors’ calculation of the Cure Costs, substantially in the form attached hereto as **Exhibit 4** (the “**Cure Notice**”), (viii) authorizing and approving the form of notice substantially attached in the form attached hereto as **Exhibit 5** (the “**Post-Auction Notice**”), and (ix) granting related relief; all as more fully described in the Motion; and this Court having jurisdiction and authority to consider the Motion and the relief requested therein in accordance with 28 U.S.C. §§ 157 and 1334; and consideration of the Motion and the relief requested therein being a core proceeding pursuant to 28 U.S.C. § 157(b); and venue being proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper notice of the Motion having been provided to the Sale Notice Parties (as defined in the Motion), and such notice having been good and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and this Court having held a hearing to consider the relief requested in the Motion; and upon the *Declaration of Justin Schmaltz in Support of Debtors’ Chapter 11 Petitions and First Day Relief* (Docket No. 5) (the “**First Day Declaration**”), the Henry Declaration (as defined in the Motion), and the record of the hearing; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion establishes just cause for the relief granted herein; and this Court having found and determined that the relief sought in the Motion is in the best interests of the Debtors, their estates, creditors, and all parties in interest; and upon all of the proceedings had before this Court and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY FOUND AND DETERMINED THAT:³

A. Jurisdiction and Venue. This Court has jurisdiction and authority to hear and determine the Motion and to grant the relief requested herein pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. Statutory and Legal Predicates. The statutory and legal predicates for the relief requested in the Motion are sections 105(a), 363, 365, 503, and 507 of the Bankruptcy Code, Bankruptcy Rules 2002, 6004, 6006, 9007, 9008, and Bankruptcy Local Rules 2002-1 and 9013-1.

C. Prepetition Marketing Process. The Debtors and their advisors, including Bank Street Group and PJT Partners, engaged in a robust and extensive sale process before and after the commencement of these chapter 11 cases, over a period of over eight months, to solicit and develop the highest or best offer for the Assets.

D. Bidding Procedures. The Debtors have articulated good and sufficient business reasons for the Court to approve the Bidding Procedures. The Bidding Procedures are fair, reasonable, and appropriate under the circumstances and designed to maximize the recovery on, and realizable value of, the Assets, as determined by the Debtors' sound business judgment. The Bidding Procedures were negotiated in good faith and at arms' length and are reasonably designed to promote a competitive and robust bidding process to generate the greatest level of interest in the Debtors' business resulting in the highest or otherwise best offer.

E. Designation of Stalking Horse Bid. The Stalking Horse Bid, as reflected in the Stalking Horse Agreement, represents the highest or best offer the Debtors received during its

³ The findings and conclusions set forth herein constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

prepetition sale process to purchase the Stalking Horse Assets. The Stalking Horse Agreement provides the Debtors with the opportunity to sell the Stalking Horse Assets to preserve and realize their going-concern value. Without the Stalking Horse Bid, the Debtors would likely realize a lower price for the Stalking Horse Assets. Accordingly, the contributions of the Stalking Horse Bidder to the process have provided a substantial benefit to the Debtors, their estates, and creditors in these chapter 11 cases. The Stalking Horse Bid will enable the Debtors to continue their operations, preserve jobs, minimize disruption to the Debtors' business, and secure a fair and adequate baseline price for the Assets at the Auction (if any), and, accordingly, will provide a clear benefit to the Debtors' estates, their creditors, and all other parties in interest.

F. Designation of Stalking Horse Bidder. The Stalking Horse Bidder shall act as the "stalking-horse" bidder pursuant to the Stalking Horse Agreement, and the Stalking Horse Bid shall be subject to higher or better offers in accordance with the Bidding Procedures. The Stalking Horse Bidder is not an "insider" or "affiliate" of any of the Debtors, as those terms are defined in section 101 of the Bankruptcy Code, and no common identity of incorporators, directors, or controlling stockholders exists between the Stalking Horse Bidder and the Debtors. Pursuit of the Stalking Horse Bidder as a "stalking-horse" bidder and its Stalking Horse Bid as a "stalking-horse" purchase agreement is in the best interests of the Debtors and the Debtors' estates and creditors, and it reflects a sound exercise of the Debtors' business judgment.

G. Stalking Horse Bid Protections. The Stalking Horse Bid Protections (i) have been negotiated by the Stalking Horse Bidder and the Debtors and their respective advisors at arm's length and in good faith and (ii) are necessary to ensure that the Stalking Horse Bidder will continue to pursue its Stalking Horse Agreement and the Sale Transaction contemplated thereby. The Termination Payment (as defined in the Stalking Horse Agreement), to the extent

payable under the Stalking Horse Agreement, (a)(1) is an actual and necessary cost and expense of preserving the Debtors' estates within the meaning of section 503(b) of the Bankruptcy Code and (2) shall be treated as an allowed administrative expense claim against the Debtors' estates pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code, (b) is commensurate to the real and material benefits conferred upon the Debtors' estates by the Stalking Horse Bidder, and (c) is fair, reasonable, and appropriate, including in light of the size and nature of the Sale Transaction and the efforts that have been and will be expended by the Stalking Horse Bidder. The Stalking Horse Bid Protections were a material inducement for, and condition to, the Stalking Horse Bidder's execution of the Stalking Horse Agreement. Unless it is assured that the Stalking Horse Bid Protections will be available, the Stalking Horse Bidder is unwilling to remain obligated to consummate the Sale Transaction or otherwise be bound under the Stalking Horse Agreement (including the obligations to maintain its committed offer while such offer is subject to higher or better offers as contemplated by the Bidding Procedures).

H. Assumption and Assignment Provisions. The Debtors have articulated good and sufficient business reasons for the Court to approve the Assumption and Assignment Procedures and such Assumption and Assignment Procedures, including the form of the Sale Notice attached hereto as **Exhibit 3** and the form of the Cure Notice attached hereto as **Exhibit 4**, are fair, reasonable, and appropriate. The Assumption and Assignment Procedures provide an adequate opportunity for all Contract Counterparties to raise any objections to the proposed assumption and assignment of any Transferred Contract or the proposed Cure Costs. The Assumption and Assignment Procedures comply with the provisions of section 365 of the Bankruptcy Code and Bankruptcy Rule 6006.

I. Sale Notice. The Sale Notice, the form of which is attached hereto as **Exhibit 3**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Bidding Procedures, the Assumption and Assignment Procedures, the Auction, the Sale Hearing, and the Sale Transaction (including the sale of the Stalking Horse Assets as set forth under the Stalking Horse Bid) free and clear of any liens, claims, encumbrances, or interests pursuant to section 363(f) of the Bankruptcy Code, and any and all objection deadlines related thereto, and no other or further notice shall be required for the Motion, the Sale Transaction, or the potential assumption and assignment of the Transferred Contracts except as expressly required herein.

J. Cure Notice. The Cure Notice, the form of which is attached hereto as **Exhibit 4**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Assumption and Assignment Procedures, as well as any and all objection deadlines related thereto, and no other or further notice shall be required for the Motion and the procedures described therein, except as expressly required herein.

K. Post-Auction Notice. The Post-Auction Notice, substantially in the form attached hereto as **Exhibit 5**, is appropriate and reasonably calculated to provide all interested parties with timely and proper notice of the Successful Bid and Back-Up Bid (each, as defined herein), and no other further notice is required.

L. Notice. Good and sufficient notice of the relief sought in the Motion has been provided under the circumstances, and no other or further notice is required, except as set forth in the Bidding Procedures and the Assumption and Assignment Procedures. A reasonable opportunity to object and be heard regarding the relief granted herein has been afforded to all

parties in interest, including those persons and entities entitled to notice pursuant to Bankruptcy Rule 2002.

M. The Debtors have articulated good and sufficient business reasons for the Court to approve (i) the Bidding Procedures, (ii) the Stalking Horse Bid Protections, (iii) the Assumption and Assignment Procedures, and (iv) the form and manner of notice of the Auction and the Sale Hearing for the Sale Transaction.

IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Process Timeline

1. The Debtors are authorized to take any and all actions reasonably necessary and appropriate to implement the Bidding Procedures in accordance with the following timeline:

Key Event	Date or Deadline
Milestone for entry of Bidding Procedures Order	June 27, 2025
Deadline to submit Bids	July 17, 2025 at 4:00 p.m. (prevailing Central Time)
Qualified Bid Deadline: Debtors to notify bidders of status as Qualified Bidders and to file and publish (on Claims Agent Website) notice of Qualified Bids	July 21, 2025 at 4:00 p.m. (prevailing Central Time)
Auction to be held if the Debtors receive more than one Qualified Bid, to be conducted at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to Qualified Bidders	July 22, 2025, at 8:00 a.m. (prevailing Central Time)
Deadline to file notice and identities of Successful Bid(s) and Back-Up Bid(s)	July 24, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file proposed form of Sale Order	July 24, 2025 at 4:00 p.m. (prevailing Central Time)

Key Event	Date or Deadline
Deadline to file objections to Sale Transaction	July 28, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to cure costs and/or adequate assurance of future performance	July 28, 2025 at 4:00 p.m. (prevailing Central Time)
Sale Hearing	August 1, 2025 at 1:00 p.m. (prevailing Central Time)

2. The failure to timely file an objection in accordance with this Order shall forever bar the assertion of any objection to the relief contemplated by the Motion and/or consummation of a Sale Transaction, including the assumption and assignment of Transferred Contracts to the Successful Bidder pursuant to a purchase agreement, and shall be deemed to constitute any such party's consent to entry of the applicable order and consummation of the applicable Sale Transaction and all other transactions related thereto.

3. The Debtors reserve the right, and are authorized to, modify the above timeline and Bidding Procedures, in each case, in accordance with the Bidding Procedures.

Stalking Horse Bid Protections

4. The Stalking Horse Bid shall be subject to higher or better Qualified Bids (as defined in the Bidding Procedures), in accordance with the terms and procedures of the Bidding Procedures.

5. The Stalking Horse Bid Protections are approved in their entirety. The Termination Payment shall be payable in accordance with, and subject to the terms of, the Stalking Horse Agreement.

6. If the Termination Payment becomes due and owing pursuant to the terms of the Stalking Horse Agreement, the Debtors are authorized to pay the Termination Payment by wire transfer of immediately available funds, directly using proceeds from the Purchase Price from

a Successful Bidder or otherwise, in accordance with the Stalking Horse Agreement and without further order of the Court. Upon receiving the Purchase Price from a Successful Bidder (other than the Stalking Horse Bidder), the Debtors shall set aside an amount in cash for payment of the Termination Payment, pursuant to the terms of the Stalking Horse Agreement.

7. The Termination Payment, to the extent payable under the Stalking Horse Agreement, shall constitute an allowed administrative expense claim against the Debtors' estates pursuant to sections 105(a), 503(b), and 507(a)(2) of the Bankruptcy Code.

Bidding Procedures

8. The Bidding Procedures, attached hereto as **Exhibit 1**, are hereby approved in their entirety, are incorporated herein by reference, and shall govern the bids and proceedings related to the sale of the Assets and the Auction. The failure to specifically include or reference any particular provision of the Bidding Procedures in the Motion or this Order shall not diminish or otherwise impair the effectiveness of such procedures, it being the Court's intent that the Bidding Procedures are approved in their entirety, as if fully set forth in this Order. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures.

9. The Bidding Procedures shall apply with respect to any bids for, and the Auction and sale of, all or any portion of the Assets, including the Stalking Horse Assets set forth in the Stalking Horse Agreement. The procedures and requirements set forth in the Bidding Procedures, including those associated with submitting a Qualified Bid, are fair, reasonable, appropriate, and designed to maximize recoveries for the benefit of the Debtors' estates, creditors, and other parties in interest. The Debtors are authorized to take all actions necessary or appropriate to implement the Bidding Procedures in accordance with the terms of this Order and the Bidding Procedures.

10. The deadline for submitting Bids (the “**Bid Deadline**”) is **July 17, 2025, at 4:00 p.m. (prevailing Central Time)**; provided that the Debtors shall have the right, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders (each, as defined in the Bidding Procedures), to extend the Bid Deadline for any reason whatsoever, in their reasonable business judgment, for all or certain Potential Bidders (as defined in the Bidding Procedures), without further order of the Court, subject to providing prior notice to the Stalking Horse Bidder, the Consultation Parties (as defined in the Bidding Procedures), and all Potential Bidders.⁴ Any party that does not submit a Qualified Bid by the Bid Deadline in accordance with the Bidding Procedures will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction.

11. The Stalking Horse Bidder is a Qualified Bidder (as defined herein) and the Stalking Horse Bid, as set forth in the Stalking Horse Agreement (including as may be increased at the Auction (if any)), is a Qualified Bid, as set forth in the Bidding Procedures.

12. All Potential Bidders submitting bids determined by the Debtors to be Qualified Bids in accordance with the Bidding Procedures are deemed to have submitted to the exclusive jurisdiction and authority of this Court with respect to all matters related to the Auction and the terms and conditions of the sale or transfer of the Assets.

13. To qualify as a Qualified Bid, each such bid must be accompanied by information supporting the Potential Bidder’s ability to comply with the requirements of adequate assurance of future performance under section 365(f)(2)(B) of the Bankruptcy Code, including the bidder’s financial wherewithal and willingness to perform under any contracts that will be assumed

⁴ For the avoidance of doubt, the Debtors’ ability to extend deadlines as provided herein shall not alter the Stalking Horse Bidder’s rights under the Stalking Horse Agreement.

and assigned to such bidder. In addition to the other requirements of a Qualified Bid as set forth in the Bidding Procedures, each such bid must be accompanied by a written statement confirming that (i) the bidder has not engaged in any collusion with respect to the submission of any bid, the bidding, or the Auction and (ii) its Qualified Bid is a good faith bona fide offer that it agrees to consummate the transactions contemplated by its Qualified Bid if selected as the Successful Bidder.

14. Subject to the Bidding Procedures and any applicable consent or consultation rights provided therein, this Order, and the rights of the Stalking Horse Bidder under the Stalking Horse Agreement, the Debtors shall have the right as they may reasonably determine to be in the best interests of their estates to carry out the Bidding Procedures, including to: (i) determine which bidders are Qualified Bidders; (ii) determine which bids are Qualified Bids; (iii) determine which Qualified Bid is the highest or otherwise best purchase price and/or terms received prior to the Auction; (iv) determine which Qualified Bid(s) is the Successful Bid; (v) if the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, designate a Back-Up Bidder as the Successful Bidder and such bidder's Back-Up Bid as the Successful Bid upon the filing of the Back-Up Bid Implementation Notice (as defined herein) with the Court; (vi) reject any bid (other than the Stalking Horse Bid) that is (a) inadequate or insufficient, (b) not in conformity with the requirements of this Order, the Bidding Procedures, or the requirements of the Bankruptcy Code, or (c) contrary to the best interests of the Debtors and their estates; (vii) adjourn and/or cancel the Sale Hearing in open court and/or the Auction without further notice or as provided in the Bidding Procedures; (viii) modify the Bidding Procedures consistent with their fiduciary duties and the Bankruptcy Code, and as set forth in the Bidding Procedures; and (ix) withdraw the Motion at any time with or without prejudice.

15. The Debtors shall have the right, in their business judgment, to modify the Bidding Procedures, including (i) waive terms and conditions with respect to any Potential Bidder or Qualified Bid, (ii) extend the deadlines set forth in the Bidding Procedures, (iii) announce at the Auction modified or additional procedures for conducting the Auction, and (iv) provide reasonable accommodations to Potential Bidders with respect to such terms, conditions, and deadlines of the bidding and Auction process to promote further bids by such bidders on any Assets, in each case, to the extent not materially inconsistent with the Bidding Procedures, including any applicable consent or consultation rights provided therein, and this Order. Except as provided in the Stalking Horse Agreement, nothing in this Order or the Bidding Procedures shall obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

16. The Debtors shall identify those bids that qualify as Qualified Bids (each bidder that submits such a Qualified Bid being a “**Qualified Bidder**”) by **July 21, 2025, at 4:00 p.m. (prevailing Central Time)**. If one or more Qualified Bid is timely received, other than the Stalking Horse Bid, with respect to the same or overlapping Assets or group of Assets, the Auction shall be conducted at the offices of Weil, Gotshal & Manges LLP; 767 Fifth Avenue, New York, New York 10153 and/or virtually on **July 22, 2025, at 8:00 a.m. (prevailing Central Time)**, or at such other date, time, and location as shall be timely communicated to all parties entitled to attend the Auction.

17. Only Qualified Bidders will be eligible to participate in the Auction, subject to such limitations as the Debtors may impose in good faith. In addition, professionals and/or other representatives of the Debtors and the Consultation Parties shall be permitted to attend and observe the Auction. The Debtors may, in their sole discretion, establish a reasonable limit on the number of representatives and/or professional advisors that may appear on behalf of or accompany

Qualified Bidders or other parties at the Auction. The proceedings of the Auction shall be transcribed or videotaped, at the Debtors' option.

18. Absent further order of the Court, no Qualified Bidder (other than the Stalking Horse Bidder solely as provided herein) shall be entitled to any expense reimbursement, break-up fee, termination fee, or other similar fee or payment in connection with any Sale Transaction, and by submitting a bid, such Qualified Bidder is deemed to have waived its right to request or to file with this Court any request for expense reimbursement or any fee of any nature, whether by virtue of section 503(b) of the Bankruptcy Code or otherwise.

19. If the Stalking Horse Bid, as reflected in the Stalking Horse Agreement, is the only Qualified Bid in respect of the Assets that is received by the Debtors by the Bid Deadline, the Debtors shall not conduct an Auction for the Assets, and the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed the Successful Bid with respect to the Assets. In such circumstances, the Debtors shall notify the Court and publish such notice on the Claims Agent Website⁵ prior to the date on which the Auction was scheduled to occur.

20. The Debtors may, in the exercise of their business judgment, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders (as defined in the Bidding Procedures)) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders (as defined in the Bidding Procedures)), identify the highest or otherwise best Qualified Bid(s) as the successful bid(s) (a “**Successful Bid**” and, the bidder(s) submitting such bid(s), a “**Successful Bidder**”). The

⁵ The Debtors' claims and noticing agent in these chapter 11 cases, Stretto, Inc., maintains a website located at <http://cases.stretto.com/everstream> (the “**Claims Agent Website**”).

Debtors may also identify which Qualified Bid(s) constitute the second highest or otherwise best bid, and deem such second highest bid a back-up bid (the “**Back-Up Bid**” and, the bidder submitting such bid, the “**Back-Up Bidder**”).

21. By July 24, 2025, at 4:00 p.m. (prevailing Central Time), the Debtors shall file with the Court and post on the Claims Agent Website a notice of the Successful Bid, Successful Bidder, Back-Up Bid, and Back-Up Bidder. For the avoidance of doubt, subject to Paragraph 22 of this Order, nothing in this paragraph shall alter the requirement that, if the Debtors, in consultation with the Consultation Parties, determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed the Successful Bid.

22. Notwithstanding anything in this Order to the contrary, whether or not an Auction is held, if the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), designate the Back-Up Bidder as the Successful Bidder and such Back-Up Bidder’s Back-Up Bid as the Successful Bid by filing a notice to such effect with the Court in these chapter 11 cases (the “**Back-Up Bid Implementation Notice**”) and serving such notice on the Sale Notice Parties, Contract Counterparties, and all known creditors and interest holders identified on the Debtors’ creditor matrix, and, if so designated, the Debtors shall seek to consummate the Sale Transaction pursuant to the Back-Up Bid. As soon as practicable after the Debtors file the Back-Up Bid Implementation Notice, the Debtors may file a motion with the Court seeking approval of the

Assumption and Assignment Procedures for unexpired leases and executory contracts in connection with such Back-Up Bid, unless the Stalking Horse Bid is deemed the Back-Up Bid.

Sale Hearing and Sale Objection Deadline

23. The Debtors shall file with this Court and serve by e-mail, mail, facsimile, or overnight delivery on the Sale Notice Parties a proposed form of order authorizing and approving, among other things, the Sale Transaction in which all or some of the Assets of the Debtors or the Debtors' business will be sold to the applicable Successful Bidder or the Back-Up Bidder (the "**Sale Order**") no later than **July 24, 2025, at 4:00 p.m. (prevailing Central Time)**. The Debtors will seek the entry of the Sale Order at the Sale Hearing before the Court to be held on **August 1, 2025, at 1:00 p.m. (prevailing Central Time)**. The Sale Hearing may be adjourned by this Court or the Debtors from time to time without further notice other than by announcement in open court or through the filing of a notice or other document on this Court's docket.

24. The Successful Bidder (which may be the Stalking Horse Bidder or, if so designated pursuant to this Order, the Back-Up Bidder) shall appear at the Sale Hearing and be prepared, if necessary, to have a representative(s) testify in support of the Successful Bid and the Successful Bidder's ability to close in a timely manner and provide adequate assurance of its future performance under any and all executory contracts and unexpired leases to be assumed and assigned as part of the proposed Sale Transaction.

25. Objections to the Sale Transaction (each, a "**Sale Objection**") must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (iii) state with particularity the basis and nature of any objection, and provide proposed language that, if accepted and incorporated by the Debtors, would obviate such objection; (iv) conform to the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local

Rules; (v) be filed with the Bankruptcy Court; and (vi) be served upon the following parties by the Sale Objection Deadline: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Stephen Castro, Esq. (stephen.castro@nortonrosefulbright.com)); (f) counsel to the Official Committee of Unsecured Creditors, McDermott Will & Emery LLP, 2801 North Harwood Street, Suite 2600, Dallas, TX 75201 (Attn: Charles Gibbs, Esq (crgibbs@mwe.com)) and McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017-3852 (Attn: Darren Azman, Esq. (dazman@mwe.com), Kristin Going, Esq. (kgoing@mwe.com), and Gregg Steinman, Esq. (gsteinman@mwe.com)); (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC,

Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”) by **July 28, 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Sale Objection Deadline**”). All Sale Objections will be heard by this Court at the Sale Hearing.

26. The failure of any objecting person or entity to timely file and serve a Sale Objection on the Objection Notice Parties shall be a bar to the assertion, at the Sale Hearing or thereafter, of any objection to the Motion, or to the consummation and performance of the Sale Transaction contemplated by the Stalking Horse Bid or, if the Auction is held, any purchase agreement with the Successful Bidder or the Back-Up Bidder, including the transfer of the Assets to the Successful Bidder or the Back-Up Bidder, free and clear of all claims and interests pursuant to section 363(f) of the Bankruptcy Code. Failure to object shall constitute consent for the purposes of section 363(f) of the Bankruptcy Code.

Notice of Sale Transaction

27. The Sale Notice, substantially in the form attached hereto as **Exhibit 3**, is approved, and no other or further notice of the Assumption and Assignment Procedures, the Auction, the Sale Hearing, the Sale Objection Deadline, and the Sale Transaction shall be required if the Debtors serve and publish such notice in the manner provided in the Bidding Procedures and this Order. The Sale Notice contains the type of information required under Bankruptcy Rule 2002

and complies in all respects with applicable provisions of the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules.

28. All parties in interest shall receive or be deemed to have received good and sufficient notice of (i) the Motion, (ii) the Assumption and Assignment Procedures, including the potential assumption and assignment of the Transferred Contracts to the Successful Bidder, (iii) the Auction, (iv) the Sale Objection Deadline, (v) the Sale Transaction, including the sale of the Assets, and (vi) the Sale Hearing, and no further notice of the foregoing shall be required, if:

- (a) As soon as practicable, but no later than three calendar days after entry of this Order, the Debtors cause the Sale Notice to be filed with this Court and served by e-mail, mail, facsimile, or overnight delivery on the Sale Notice Parties, all Contract Counterparties, and all known creditors and interest holders identified on the Debtors' creditor matrix; and
- (b) As soon as practicable, but no later than seven calendar days after entry of this Order, the Debtors shall cause the Sale Notice to be published on the Claims Agent Website and once in the national edition of *The New York Times*.

Assumption and Assignment Procedures

29. The Assumption and Assignment Procedures are reasonable and appropriate under the circumstances, fair to all non-Debtor parties, comply in all respects with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, and are approved.

30. Nothing in this Order shall be deemed to limit the Debtors' or the Successful Bidder's ability to negotiate partial assumption and/or assumption and assignment of contracts with Contract Counterparties on a consensual basis.

31. The Cure Notice, substantially in the form attached hereto as **Exhibit 4**, is reasonable, fair, and appropriate, contains the type of information required under Bankruptcy Rule 2002, and complies in all respects with applicable provisions of the Bankruptcy

Code, Bankruptcy Rules, and Bankruptcy Local Rules, and is hereby approved. It is reasonably calculated to provide sufficient notice to the Contract Counterparties of the Debtors' intent to potentially assume and assign the Transferred Contracts to the Stalking Horse Bidder (or as otherwise contemplated by the Stalking Horse Bid) or to a Successful Bidder other than the Stalking Horse Bidder in connection with the Sale Transaction and constitutes adequate notice thereof.

32. The Debtors shall file the Cure Notice with this Court and serve the Cure Notice on the Contract Counterparties by overnight mail promptly following the Bid Deadline and on or before July 24, 2025. Service of the Cure Notice in accordance with this Order on all Contract Counterparties is hereby deemed to be good and sufficient notice of the Cure Costs for, and the potential assumption and assignment of, the Transferred Contracts to the Successful Bidder (or as otherwise contemplated by the Successful Bid). As soon as reasonably practicable after serving the Cure Notice, the Debtors shall post a copy of the Cure Notice on the Claims Agent Website.

33. Upon service of the Cure Notice, all Contract Counterparties shall receive or be deemed to have received good and sufficient notice of the Cure Costs for, and the potential assumption and assignment of, the Transferred Contracts to the Successful Bidder or as otherwise contemplated by the Successful Bid.

34. All objections to any proposed Cure Costs (each, a **"Cure Objection"**) and to the provision of adequate assurance of future performance (each, an **"Adequate Assurance Objection"**) must: (i) be in writing; (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules; (iii) state, with specificity, the legal and factual basis thereof, including, with respect to a Cure Objection, what Cure Costs the objecting

party believes are required; (iv) include any appropriate documentation in support thereof; and (v) be filed with this Court and served on the Objection Notice Parties by the applicable deadline set forth in the applicable notice.

35. A properly filed Cure Objection will reserve such objecting party's rights against the Debtors only with respect to the assumption and assignment of the Transferred Contract at issue, and/or objection to the accompanying Cure Costs, as set forth in the Cure Objection, but will not constitute an objection to the remaining relief requested in this Order.

36. Any Cure Objection or Adequate Assurance Objection must be filed and served by the Sale Objection Deadline, provided that the Debtors may modify the Sale Objection Deadline by filing a notice of such modification on the Court's docket. If a timely Cure Objection or Adequate Assurance Objection is received and such objection cannot otherwise be resolved by the parties, such objection shall be heard at the Sale Hearing or such later date as the Debtors determine prior to the scheduled Closing (as defined in the Stalking Horse Agreement) of the Sale Transaction.

37. Notwithstanding anything herein to the contrary, if a timely Cure Objection is received and such objection cannot otherwise be resolved by the parties prior to the Sale Hearing, the Debtors may assume and assign the applicable Transferred Contract prior to the resolution of the Cure Objection and such Cure Objection may be scheduled to be heard by the Court after the Sale Hearing. If a Contract Counterparty has objected solely to the proposed Cure Cost, the Debtors or Successful Bidder (or Back-Up Bidder, as applicable) may pay the undisputed portion of such Cure Cost and place the disputed amount in a segregated account pending further order of the Court or mutual agreement of the parties. Under such circumstances, the objecting non-Debtor counterparty's recourse is limited to the funds held in such segregated account.

38. To the extent the Debtors identify at any time after the Cure Notice is served, additional Transferred Contracts (including any Shared Customer Contracts (as defined in the Stalking Horse Agreement) that become Transferred Contracts) that may be assumed and assigned to the Successful Bidder (or as otherwise contemplated by the Successful Bid), the Debtors shall file with this Court and serve on the relevant Contract Counterparty to such Transferred Contract a supplemental Cure Notice (each, a “**Supplemental Cure Notice**,” the form of which shall be substantially similar to the form of Cure Notice attached hereto as **Exhibit 4**). Any (i) Cure Objection with respect to Cure Costs set forth in a Supplemental Cure Notice and (ii) Adequate Assurance Objection with respect to the assumption and assignment of the Transferred Contract(s) set forth in such Supplemental Cure Notice (each a “**Supplemental Cure Objection**”) must be filed and served on all Objection Notice Parties within seven calendar days of service of that Supplemental Cure Notice. All Supplemental Cure Objections must (a) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (b) state, with specificity, the legal and factual basis for the objection as well as what Cure Costs are required, if any, and (c) include appropriate documentation in support thereof.

39. If no timely Cure Objection is filed and served in respect of a Transferred Contract, the Cure Cost identified on the Cure Notice or a Supplemental Cure Notice, as applicable, will be the only amount necessary under section 365(b) of the Bankruptcy Code to cure all defaults under such Transferred Contract. Any party failing to timely file a Cure Objection shall be forever barred from objecting to the Cure Costs and from asserting any additional cure or other amounts against the Debtors, their estates, or the Successful Bidder(s).

40. If no timely Adequate Assurance Objection is filed and served with respect to a Transferred Contract, the Successful Bidder (or any other entity contemplated by the

Successful Bid) will be deemed to have provided adequate assurance of future performance for such Transferred Contract in accordance with section 365(f)(2)(B) of the Bankruptcy Code. Any party failing to timely file an Adequate Assurance Objection shall be forever barred from objecting to the provision of adequate assurance of future performance by the Successful Bidder (or any other entity contemplated by the Successful Bid) and shall be forever barred from requesting any additional provision of adequate assurance of future performance from the Successful Bidder (or any other entity contemplated by the Successful Bid).

41. Prior to Closing, the Debtors shall file one or more notices identifying the Transferred Contracts (including any Shared Customer Contracts that become Transferred Contracts) ultimately designated for assumption and assignment by the Successful Bidder, and shall serve such notices on the relevant Contract Counterparties by overnight mail. The Debtors may provide for additional procedures in the Sale Order with respect to executory contracts or unexpired leases that may be assumed and assigned to the Successful Bidder following Closing of the Sale Transaction.

42. If no timely Cure Objection or Adequate Assurance Objection is filed and served with respect to a Transferred Contract, the relevant Contract Counterparty shall be deemed to have consented to the assumption and assignment of the Transferred Contract to the Successful Bidder (or as otherwise contemplated by the Successful Bid).

43. The Debtors' assumption and assignment of any Transferred Contracts to the Successful Bidder (or as otherwise contemplated by the Successful Bid) is subject to approval of this Court at the Sale Hearing and the consummation of the Sale Transaction. Accordingly, absent the Closing of the Sale Transaction, the Transferred Contracts shall not be deemed assumed

or assigned, and shall in all respects be subject to further administration under the Bankruptcy Code.

44. The inclusion of a contract, lease, or other agreement on the Cure Notice or any Supplemental Cure Notice shall not constitute or be deemed a determination or admission by the Debtors or any other party in interest that such contract or other document is an executory contract or unexpired lease within the meaning of the Bankruptcy Code or that the stated Cure Cost is due (all rights with respect thereto being expressly reserved). The Debtors reserve all of their rights, claims, defenses, and causes of action with respect to each contract, lease, or other document listed on the Cure Notice or any Supplemental Cure Notice. The Debtors' inclusion of an executory contract or unexpired lease on the Cure Notice or any Supplemental Cure Notice shall not be a guarantee that such executory contract or unexpired lease ultimately will be assumed or assumed and assigned.

General Provisions

45. All objections to the relief granted herein, if any, that have not been withdrawn with prejudice, waived, or settled, and all reservations of rights included in such objections, are hereby overruled and denied on the merits with prejudice.

46. All persons or entities (whether or not Qualified Bidders) that participate in the bidding process, including submitting a bid for any of the Assets during the sale process and/or Auction, shall be deemed to have knowingly and voluntarily (i) submitted to the exclusive jurisdiction and authority of this Court with respect to all matters related to the terms and conditions of the transfer of Assets, the Auction, and any Sale Transaction, (ii) consented to the entry of a final order by this Court in connection with the Motion or this Order (including any disputes related to the bidding process, the Auction, and/or any Sale Transaction) to the extent that it is later determined that this Court, absent consent of the parties, cannot enter final orders or

judgments in connection herewith consistent with Article III of the United States Constitution, and (iii) waived any right to jury trial in connection with any disputes relating to the any of the foregoing matters.

47. To the extent the provisions of this Order are inconsistent with the provisions of any exhibits referenced herein or with the Motion, the provisions of this Order (excluding exhibits) shall control; provided that if the terms of this Order, the Stalking Horse Agreement, and/or the Bidding Procedures (i) do not expressly resolve the issue under consideration or (ii) are ambiguous with regard to such issue, the Debtors or other parties in interest, on such notice as may be appropriate, may seek such relief from this Court as may be necessary.

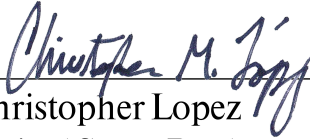
48. Notwithstanding the applicability of any of Bankruptcy Rules 6004(h), 6006(d), 7062, 9014, or any other provisions of the Bankruptcy Rules or the Bankruptcy Local Rules stating the contrary, the terms and conditions of this Order shall be immediately effective and enforceable upon its entry, and any applicable stay of the effectiveness and enforceability of this Order is hereby waived.

49. The Debtors are authorized to make non-substantive changes to the Bidding Procedures, the Assumption and Assignment Procedures, and any related documents without further order of the Court, including changes to correct typographical and grammatical errors and to make conforming non-substantive changes to the Debtors' disclosure statement and chapter 11 plan.

50. The Debtors are authorized to take all steps necessary or appropriate to carry out this Order.

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

Signed: June 24, 2025



Christopher Lopez
United States Bankruptcy Judge

Exhibit 1

Bidding Procedures

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, et al.,	§	Case No. 25–90144 (CML)
	§	
	§	(Jointly Administered)
Debtors.¹	§	

BIDDING PROCEDURES

Overview

On May 28, 2025 (the “**Petition Date**”), Everstream Solutions LLC and its debtor affiliates, as debtors and debtors in possession (collectively, the “**Debtors**”), filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”) in the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”). The Debtors’ chapter 11 cases have been consolidated for procedural purposes under the lead case, *In re Everstream Solutions LLC, et al.*, Case No. 25-90144 (CML).

On [June [●]], 2025, pursuant to a motion by the Debtors (Docket No. 57) (the “**Bidding Procedures Motion**”), the Bankruptcy Court entered an order (Docket No. [●]) (the “**Bidding Procedures Order**”),² which approved these procedures (the “**Bidding Procedures**”) for the selection of the highest or otherwise best offer or collection of offers to acquire all or substantially all of the Debtors’ assets, other than the IL Divested Business and the MO Divested Business (each as defined in the Stalking Horse Agreement (as defined herein)) (the “**Assets**”), which transaction(s) may be effectuated through a sale or sales pursuant to section 363 of the Bankruptcy Code.

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Bidding Procedures Motion or Bidding Procedures Order (each as defined herein), as applicable.

Bluebird MidWest, LLC (the “**Stalking Horse Bidder**”), an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator, has submitted a bid and has executed that certain *Asset Purchase Agreement* (together with the exhibits and schedules thereto, and as it may be amended, supplemented, or otherwise modified from time to time in accordance with the terms thereof, the “**Stalking Horse Agreement**”), executed on May 22, 2025. The Stalking Horse Agreement contemplates, pursuant to the terms and subject to the conditions contained therein, the sale of substantially all of the Assets (other than the PA Business, as defined in the Stalking Horse Agreement) to the Stalking Horse Bidder for the purchase price of (i) \$285 million in cash (subject to purchase price adjustments) and (ii) the assumption of the Assumed Liabilities (as defined in the Stalking Horse Agreement) (collectively, the “**Stalking Horse Bid**”). The Stalking Horse Bid sets the floor for the sale and is subject to higher or otherwise better offers submitted in accordance with the terms and conditions of these Bidding Procedures.

Summary of Important Dates

These Bidding Procedures provide interested parties the opportunity to submit competing bids for all or any portion of the Assets, and to participate in an auction to be conducted by the Debtors (the “**Auction**”).

The key dates for the sale process are as follows. Such dates may be extended or otherwise modified by the Debtors by filing a notice of such extension or modification on the Bankruptcy Court’s docket:

Key Event	Date or Deadline
Milestone for entry of Bidding Procedures Order	June 27, 2025
Deadline to submit Bids	July 17, 2025 at 4:00 p.m. (prevailing Central Time)
Qualified Bid Deadline: Debtors to notify bidders of status as Qualified Bidders and to file and publish (on Claims Agent Website) notice of Qualified Bids	July 21, 2025 at 4:00 p.m. (prevailing Central Time)
Auction to be held if the Debtors receive more than one Qualified Bid, to be conducted at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to Qualified Bidders	July 22, 2025, at 8:00 a.m. (prevailing Central Time)
Deadline to file notice and identities of Successful Bid(s) and Back-Up Bid(s)	July 24, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file proposed form of Sale Order	July 24, 2025 at 4:00 p.m. (prevailing Central Time)

Key Event	Date or Deadline
Deadline to file objections to Sale Transaction	July 28, 2025 at 4:00 p.m. (prevailing Central Time)
Deadline to file objections to cure costs and/or adequate assurance of future performance	July 28, 2025 at 4:00 p.m. (prevailing Central Time)
Sale Hearing	August 1, 2025 at 1:00 p.m. (prevailing Central Time)

Property To Be Sold

The Debtors seek to sell all or substantially all of the Assets, in whole or in part to one or more purchasers (each sale in furtherance of the same, a “**Sale Transaction**”).

Due Diligence

The Debtors have posted copies of all material documents related to the Assets to the Debtors’ confidential electronic data room (the “**Data Room**”). To access the Data Room, an interested party must submit to the Debtors or their advisors the following:

- (A) an executed confidentiality agreement in form and substance satisfactory to the Debtors; and
- (B) sufficient information, as reasonably determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders,³ DIP Agent, and DIP Lenders,⁴ to allow the Debtors to determine that the interested party (i) has the financial wherewithal to consummate the applicable Sale Transaction and (ii) intends to access the Data Room for a purpose consistent with these Bidding Procedures.

Each interested party that meets the above requirements to the satisfaction of the Debtors shall be a “**Potential Bidder**.” As soon as practicable, the Debtors will provide all Potential Bidders access to the Data Room; provided that such access will be terminated by the Debtors in

³ “**OpCo Lenders**” means the lenders holding prepetition loans to Midwest Fiber Acquisition LLC (“**OpCo**”) pursuant to that certain Credit and Guaranty Agreement, dated as of March 29, 2022, entered into by and between, among others, OpCo, as the borrower, Midwest Fiber Acquisition Midco1 LLC, as pledgor, certain subsidiaries of OpCo, as subsidiary guarantors, the lenders party thereto, and Société Générale, as administrative agent (the “**OpCo Agent**”), as amended, restated, supplemented, or modified from time to time (the “**OpCo Credit Agreement**”). “**Required OpCo Lenders**” as used herein has the meaning of “Required Lenders” under the OpCo Credit Agreement.

⁴ “**DIP Lenders**” means lenders holding 100% of loans under that certain debtor-in-possession financing facility pursuant to that certain Super-Priority Term Loan Debtor-in-Possession Credit and Guaranty Agreement, by and between, among others, OpCo, as the borrower, certain subsidiaries of OpCo, as subsidiary guarantors, the lenders party thereto, and Société Générale, as administrative agent (the “**DIP Agent**”), as amended, restated, supplemented, or modified from time to time (the “**DIP Credit Agreement**”). “**Required DIP Lenders**” has the meaning set forth in the DIP Credit Agreement.

their discretion, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, at any time, including if (i) a Potential Bidder does not become a Qualified Bidder (as defined herein) or (ii) these Bidding Procedures are terminated.

Each Potential Bidder shall comply with all reasonable requests for information and due diligence access by the Debtors or their advisors regarding the ability of such Potential Bidder to consummate the applicable Sale Transaction.

Until the Bid Deadline (as defined herein), subject to the other terms set forth in these Bidding Procedures, the Debtors will provide all Potential Bidders with reasonable access to the Data Room and any additional information requested by Potential Bidders that the Debtors believe to be reasonable and appropriate under the circumstances. All due diligence requests shall be directed to the Debtors' advisors, Bank Street Group LLC ("**Bank Street**") at projectlightspeed@bankstreet.com, and PJT Partners LP ("**PJT Partners**") at lightspeedRSSGProjectPJT@pjtpartners.com.

Unless prohibited by law or otherwise determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, the availability of additional due diligence to a Potential Bidder will cease if (i) the Potential Bidder does not become a Qualified Bidder, (ii) the Potential Bidder informs the Debtors that it is withdrawing from the sale process, or (iii) these Bidding Procedures are terminated.

Neither the Debtors nor any of their representatives shall be obligated to furnish any information of any kind whatsoever relating to the Assets (i) to any person or entity (a) who is not a Potential Bidder, (b) who does not comply with the participation requirements set forth above, or (c) if the Debtors, in their reasonable business judgment, determine that such information is sensitive or otherwise not appropriate for disclosure to any Potential Bidder (or their representatives) that the Debtors determine (in their reasonable business judgment) is a competitor of the Debtors or is affiliated with any competitor of the Debtors (except pursuant to "clean team" or other information sharing procedures reasonably satisfactory to the Debtors) and (ii) to the extent not permitted by law or confidentiality provisions in third-party contracts.

Bid Deadline

A Potential Bidder that desires to make a bid (a "**Bid**") for some or all of the Assets shall deliver electronic copies of the Bid no later than **July 17, 2025, at 4:00 p.m. (prevailing Central Time)** (the "**Bid Deadline**"); provided that the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, may extend the Bid Deadline in their discretion without further order of the Bankruptcy Court subject to providing prior notice to all Potential Bidders, the Stalking Horse Bidder, and the Consultation Parties (as defined herein).⁵ **The submission of a Bid by the Bid Deadline shall constitute a binding and irrevocable offer to acquire the Assets as specified in such Bid.** Any party that does not submit a Bid by the Bid Deadline will not be allowed to (i) submit any offer after the Bid Deadline or (ii) participate in the Auction.

⁵ For the avoidance of doubt, the Debtors' ability to extend deadlines as provided herein shall not alter the Stalking Horse Bidder's rights under the Stalking Horse Agreement.

Bids must be submitted by email to the following:

Weil, Gotshal & Manges LLP
everstream.bids@weil.com

Bank Street
projectlightspeed@bankstreet.com

PJT Partners
lightspeedRSSGProjectPJT@pjtpartners.com

Consultation Parties

Throughout the bidding process, the Debtors and their advisors will regularly and timely consult with (i) Paul Hastings LLP and FTI Consulting as advisors to the OpCo Agent, the OpCo Lenders, the DIP Agent, the DIP Lenders, and the HoldCo Lenders⁶ and (ii) the legal advisor to the Official Committee of Unsecured Creditors, if any ((i) and (ii) collectively, the “**Consultation Parties**”). In the event that any Consultation Party or affiliate of the foregoing submits a Qualified Bid (as defined herein), such party shall no longer be a Consultation Party until such time as such party formally withdraws its Bid.

The Debtors shall promptly provide copies of all Bids received by the Debtors to the Consultation Parties; provided that the Consultation Parties must treat such Bids and any related information as confidential and shall not publicly disclose information without the written consent of the Debtors and the applicable Bidder.

For the avoidance of doubt, any consultation rights (but, for the avoidance of doubt, not any consent rights) afforded to the Consultation Parties by these Bidding Procedures shall not limit the Debtors’ discretion in any way and shall not include the right to veto any decision made by the Debtors in the exercise of their business judgment.

Form and Content of Qualified Bids

A Bid must contain a signed document from a Potential Bidder received by the Bid Deadline that identifies the purchaser by its legal name and any other party that will be participating in connection with the Bid. To constitute a “**Qualified Bid**” a Bid must include, at a minimum, the following:

- (A) Acquired Assets. Each Bid must clearly identify in writing the particular Assets the Potential Bidder seeks to acquire from the Debtors. For the avoidance of doubt,

⁶ “**HoldCo Lenders**” means prepetition lenders holding 100% of prepetition loans to Midwest Fiber Holdings LP (“**HoldCo**”) pursuant to that certain Credit and Guaranty Agreement, dated as of March 29, 2022, entered into by and between, among others, HoldCo, as the pledgor, Midwest Fiber Acquisition Topco LLC as borrower, the lenders party thereto, and Alter Domus (US) LLC, as administrative agent (the “**HoldCo Agent**”), as amended, restated, supplemented, or modified from time to time.

a Qualified Bid may include a bid for less than all or substantially all of the Assets.⁷ To the extent a Bid includes some or all of the PA Business as part of the Assets to be purchased, the Bid must clearly state the portion of the Purchase Price (as defined herein) allocated to such assets.

- (B) Purchase Price; Assumed Liabilities; Form of Consideration; Credit Bid. Each Bid must clearly set forth, as applicable:
- (i) Purchase Price. Each Bid must specify the price (the “**Purchase Price**”) proposed to be paid for the Assets, and must (a) propose a Purchase Price in cash or other aggregate consideration equal to or greater in value than the purchase price of the Stalking Horse Bid, taking into account Assumed Liabilities designated by the Potential Bidder, among other things, *plus* the Termination Payment, *plus* the amount of the Minimum Overbid Amount (as defined herein), and (b) include an amount in cash sufficient to satisfy the Termination Payment⁸ of up to \$11,400,000.
 - (ii) Assumed Liabilities. Each Bid must clearly identify the particular liabilities, if any, the Potential Bidder seeks to assume.
 - (iii) Form of Consideration. Each Bid must (a) indicate (x) whether it is an all-cash offer (including confirmation that the cash component of the Bid is based in U.S. Dollars) or consists of certain non-cash components, such as a credit bid and/or the assumption of liabilities, and (y) the allocation of the Purchase Price among the Assets to be acquired and the liabilities to be assumed, if applicable; and (b) provide sufficient cash consideration specifically designated for the Termination Payment payable to the Stalking Horse Bidder under the terms of the Stalking Horse Agreement.
 - (iv) Credit Bid. Persons or entities holding a perfected security interest in the Assets may, pursuant to section 363(k) of the Bankruptcy Code, seek to submit a “credit bid” on such Assets, to the extent permitted by applicable law, any Bankruptcy Court orders, and the documentation governing the Debtors’ prepetition or postpetition secured credit facilities. To the extent applicable, a credit bid must include a copy of the direction by the applicable lenders to the applicable agent to authorize the submission of such credit bid. A credit bid must include a commitment to provide cash consideration sufficient to pay in full all costs associated with winding down the Debtors’ chapter 11 cases (including the Termination Payment

⁷ The Debtors will consider a Qualified Bid for less than all or substantially all of the Assets, as long as the Debtors have an acceptable sale, restructuring, or other solution for the remaining Assets, as reasonably determined by the Debtors, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders.

⁸ “**Termination Payment**,” as defined in the Stalking Horse Agreement, means (i) a break-up fee in an amount equal to (i) \$8,550,000, *plus* (as applicable) (ii) the reasonable, out-of-pocket and documented expenses of the Stalking Horse Bidder incurred in connection with the Stalking Horse Agreement and transactions contemplated thereunder, up to an aggregate amount of \$2,850,000.

payable to the Stalking Horse Bidder under the terms of the Stalking Horse Agreement).

- (C) Proposed Purchase Agreement. Each Bid must include, in both PDF and MS-WORD format, an executed purchase agreement (including the disclosure schedules and exhibits thereto) (the “**Proposed Purchase Agreement**”), together with a copy of the same that has been marked against the Stalking Horse Agreement, a copy of which is located in the Data Room.
- (D) Unconditional Offer. A commitment that the Bid is formal, binding, and unconditional (except for those conditions expressly set forth in the Proposed Purchase Agreement), is not subject to any due diligence or financing contingency, and is irrevocable until the Debtors, in consultation with the Consultation Parties, notify such Potential Bidder that such Bid has not been designated as a Successful Bid or a Back-Up Bid (each, as defined herein), or until the first business day after consummation of a Sale Transaction with the Successful Bidder (as defined herein). In the event a Bid is chosen as a Back-Up Bid, it must remain irrevocable until the Back-Up Termination Date (as defined herein); provided that the foregoing shall not apply to the Stalking Horse Bidder except as otherwise set forth in the Stalking Horse Agreement.
- (E) Proposed Transition Services Agreement. Each Bid must include, in both PDF and MS-WORD format, an executed transition services agreement (including any schedules and exhibits thereto), together with a copy of the same that has been marked against the transition services agreement executed by the Stalking Horse Bidder, a copy of which is located in the Data Room.
- (F) Proof of Financial Ability to Perform. Each Bid must contain such financial and other information that allows the Debtors, in consultation with the Consultation Parties, to make a reasonable determination as to the Potential Bidder’s financial and other capabilities to consummate the applicable Sale Transaction, including such financial and other information setting forth the Potential Bidder’s willingness to perform under any contracts that are assumed and assigned to such party. Without limiting the foregoing, such information must include current financial statements or similar financial information certified to be true and correct as of the date thereof, proof of financing commitments (if needed) to close the applicable Sale Transaction (not subject to, in the Debtors’ discretion, in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, any unreasonable conditions), contact information for verification of such information, including any financing sources, and any other information reasonably requested by the Debtors, OpCo Agent, OpCo Lenders, DIP Agent, or DIP Lenders necessary to demonstrate that the Potential Bidder has the ability to close the applicable Sale Transaction in a timely manner. Any funding commitments or other financing must not be subject to any internal approvals, syndication requirements, diligence, or credit committee approvals, and shall have covenants, conditions, term, and termination provisions acceptable to the Debtors.

- (G) Designation of Contracts and Leases. Each Bid must identify with particularity each executory contract and unexpired lease to be assumed and assigned by Debtors to the Potential Bidder. Each Bid must also include information demonstrating adequate assurance of future performance under such contracts and leases in satisfaction of the requirements under section 365(f)(2)(B) of the Bankruptcy Code.
- (H) Required Approvals. A statement or evidence (i) that the Potential Bidder has made or will make in a timely manner all necessary filings under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, or other Antitrust Laws (as defined in the Stalking Horse Agreement), as applicable, and pay the fees associated with such filings; (ii) identifying each governmental and regulatory third-party approval required for the Potential Bidder to consummate the Sale Transaction; (iii) of the Potential Bidder's plan, including a detailed timeline, and ability to obtain all requisite governmental, regulatory, or other third-party approvals and the proposed timing for the Potential Bidder to undertake the actions required to obtain such approvals; (iv) that the Bid is reasonably likely (based on antitrust or other regulatory issues, experience, and other considerations) to be consummated, if selected as the Successful Bid, within a time frame acceptable to the Debtors; and (v) the Potential Bidder's legal counsel will discuss with and explain to the Debtors' legal counsel such Potential Bidder's regulatory analysis, strategy, and timeline for securing all such approvals as soon as reasonably practicable, and in no event later than the time period contemplated in the Stalking Horse Agreement.
- (I) Advisors. A Qualified Bid must state the identity and contact information of the external advisors (including financial, legal, accounting, tax, technical, commercial, and others), if any, that the Potential Bidder has engaged to assist in the Sale Transaction.
- (J) Disclosure of Identity and Corporate Authorization. Each Bid must (i) fully disclose, by their legal names, the identity of the Potential Bidder and each entity that will be participating in its Bid, and the complete terms of any such participation and (ii) include evidence of corporate authorization and approval from the Potential Bidder's board of directors (or comparable governing body) with respect to the submission, execution, and delivery of a Bid, participation in the Auction, and closing of the transactions contemplated by the Potential Bidder's Proposed Purchase Agreement in accordance with the terms of the Bid and these Bidding Procedures.
- (K) Employee Obligations. Each Bid must specify (i) whether or not the Potential Bidder intends to hire a portion or all of the Debtors' employees and (ii) expressly propose the treatment of the Debtors' prepetition compensation, incentive, retention, bonus or other compensatory arrangements, plans, or agreements, including, offer letters, employment agreements, consulting agreements, severance arrangements, retention bonus agreements, change in control arrangements, retiree benefits, and any other employment-related agreements (collectively, the "**Employee Obligations**").

- (L) Conditions to Closing. Each Bid must identify with particularity each condition to closing and state the expected date of closing of the Sale Transaction.
- (M) No Entitlement to Break-Up Fee, Expense Reimbursement, or Other Amounts. Each Bid, other than the Stalking Horse Bid, must include a statement that the Bid does not entitle the Potential Bidder to any break-up fee, termination fee, expense reimbursement or similar type of payment or reimbursement, and a waiver of any substantial contribution administrative expense claims under section 503(b) of the Bankruptcy Code related to the bidding process.
- (N) Joint Bids. The Debtors, in consultation with the Consultation Parties, will be authorized to approve joint Bids, including joint credit bids, in their reasonable discretion on a case-by-case basis.
- (O) Representations and Warranties. Each Bid must include the following representations and warranties:
 - (i) a statement that the Potential Bidder has had an opportunity to conduct any and all due diligence regarding the applicable Assets prior to submitting its Bid;
 - (ii) a statement that the Potential Bidder has relied solely upon its own independent review, investigation, and/or inspection of any relevant documents, as well as the Assets and the liabilities to be assumed (as applicable), in making its Bid and did not rely on any written or oral statements, representations, promises, warranties, or guaranties whatsoever, whether express or implied, by operation of law or otherwise, regarding such Assets or liabilities or the completeness of any information provided in connection therewith, except as expressly stated in the representations and warranties contained in the Potential Bidder's Proposed Purchase Agreement;
 - (iii) a statement that the Potential Bidder agrees to serve as Back-Up Bidder (as defined herein), if its Bid is selected as the next highest or next best bid after the Successful Bid with respect to the applicable Assets;
 - (iv) a statement that the Potential Bidder has not engaged in any collusion with respect to the submission of its Bid;
 - (v) a statement that all proof of financial ability to consummate the applicable Sale Transaction in a timely manner and all information provided to support adequate assurance of future performance is true and correct; and
 - (vi) a statement that the Potential Bidder agrees to be bound by the terms of the Bidding Procedures.
- (P) Additional Requirements. A Potential Bidder must also accompany its Bid with:

- (i) a Deposit (as defined herein), except as otherwise set forth herein;
- (ii) the contact information of the specific person(s) whom the Debtors or their advisors should contact in the event that the Debtors have any questions or wish to discuss the Bid submitted by the Potential Bidder;
- (iii) written evidence of available cash, a written, binding commitment for financing (not subject to any conditions other than those expressly set forth in the Proposed Purchase Agreement) and such other evidence of ability to consummate the transaction contemplated by the Proposed Purchase Agreement, the Bidding Procedures Order, and the Bidding Procedures, as acceptable in the Debtors' business judgment;
- (iv) the identity of each entity that will be participating in connection with such Bid and taking ownership of the Assets (including any equity owners or sponsors, if the Potential Bidder is an entity formed for the purpose of consummating the Sale Transaction) and a copy of a board resolution or similar document demonstrating the authority of the Potential Bidder to make a binding and irrevocable bid on the terms proposed and to consummate the transaction contemplated by the Proposed Purchase Agreement;
- (v) a covenant to cooperate with the Debtors, OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders to provide pertinent factual information regarding the Potential Bidder's operations reasonably required to analyze issues arising with respect to any applicable antitrust laws and other applicable regulatory requirements; and
- (vi) a detailed analysis of the value of any non-cash component of the Bid, if any, and back-up documentation to support such value.

No Communication Among Bidders Without Consent

There must be no communications or coordination between and amongst Potential Bidders without the Debtors' prior written consent (e-mail being sufficient), in consultation with the OpCo Agent, OpCo Lenders, DIP Agent, and DIP Lenders, and on such terms prescribed by the Debtors or the Debtors' advisors in their business judgment, including that the Debtors and the Debtors' advisors shall have the ability to participate in or otherwise observe all communications between Potential Bidders. The Debtors reserve the right, in their business judgment and in consultation with the Consultation Parties, to disqualify any Potential Bidders that have communications or engage in coordination between and amongst themselves without such consent. For the avoidance of doubt, there will be no prohibition on joint Bids; provided that, to the extent any Potential Bidders are interested in submitting a joint Bid, the Debtors' advisors will facilitate the communications between the parties and the potential joining of Bids.

Review of Bids; Designation and Notice of Qualified Bids

The Debtors, in consultation with the Consultation Parties, will evaluate all Bids that are timely submitted and may engage in negotiations with Potential Bidders who submitted Bids as the Debtors deem appropriate, in the exercise of their business judgment, based upon the Debtors' evaluation of each Bid.

The Debtors, in consultation with the Consultation Parties, shall determine, in their reasonable judgment, which of the Bids received by the Bid Deadline qualify as a Qualified Bid (each Potential Bidder that submits such a Qualified Bid being a "**Qualified Bidder**") and shall notify each Qualified Bidder of its status as a Qualified Bidder by no later than **July 21, 2025, at 4:00 p.m. (prevailing Central Time)** (the "**Qualified Bid Deadline**"). The Stalking Horse Bidder is a Qualified Bidder and the Stalking Horse Bid (including as may be increased at the Auction (if any)) represents a Qualified Bid, notwithstanding the "Form and Content of Qualified Bids" requirements set forth herein.

Without the written consent of the Debtors, in consultation with the Consultation Parties, a Qualified Bidder may not modify, amend, or withdraw its Qualified Bid, except for proposed amendments to increase the Purchase Price or otherwise improve the terms of its Qualified Bid during the period that such Qualified Bid remains binding as specified herein; provided that any Qualified Bid may be improved at the Auction as set forth in these Bidding Procedures; provided, further, that the Stalking Horse Bid may be modified, amended, or withdrawn pursuant to its terms. The Debtors, in consultation with the Consultation Parties, reserve the right to work with any Potential Bidder in advance of the Auction to cure any deficiencies in a Bid that is not initially deemed a Qualified Bid and to clarify or otherwise improve such Bid such that it may be designated a Qualified Bid.

In evaluating the Bids, the Debtors, in consultation with the Consultation Parties, may take into consideration the following non-binding, and non-exclusive factors:

1. the amount and the form of consideration of the Purchase Price;
2. the assets and liabilities included in or excluded from the Bid, including any executory contracts or unexpired leases proposed to be assumed and assigned and the allocation of liability for any cure costs in connection therewith;
3. the value to be provided to the Debtors under the Bid, including the net economic effect upon the Debtors' estates;
4. any benefit to the Debtors' bankruptcy estates from any assumption or waiver of liabilities;
5. the transaction structure and execution risk, including conditions to, timing of, and certainty of closing, termination provisions, availability of financing and financial wherewithal to meet all commitments, and required governmental or other approvals;
6. the impact on employees and the proposed treatment of the Employee Obligations;

7. the impact on trade creditors;
8. the certainty of the Debtors being able to confirm a chapter 11 plan concurrent with or following the consummation of the proposed Sale Transaction and the Debtors' ability to effectuate an appropriate wind-down of their estates in connection therewith; and
9. any other factors the Debtors, in consultation with the Consultation Parties, may reasonably deem relevant consistent with their fiduciary duties.

The Debtors shall prepare a notice of the Bid that the Debtors have determined to be the highest or otherwise best Qualified Bid to serve as the baseline bid at the Auction, if any. On the Qualified Bid Deadline, the Debtors shall file such notice on the Bankruptcy Court's docket and publish such notice on the chapter 11 website maintained by their claims and noticing agent, Stretto, Inc. (<https://cases.stretto.com/everstream>, the "**Claims Agent Website**").

For the avoidance of doubt: (i) the DIP Secured Parties (as defined in the DIP Order)⁹ shall have the right to credit bid (the "**DIP Credit Bid**" and, the party submitting such DIP Credit Bid, the "**DIP Credit Bidder**") any portion and up to the entire amount of the outstanding DIP Obligations (as defined in the DIP Order) at or before the Auction pursuant to section 363(k) of the Bankruptcy Code with respect to all or any portion of the Assets securing the DIP Obligations; (ii) the DIP Secured Parties shall be deemed to be Qualified Bidders with respect to any credit bid of the DIP Obligations; and (iii) any credit bid submitted by the DIP Secured Parties shall be deemed a Qualified Bid. In addition, any Qualified Bidder who has a valid and perfected lien on any assets of the Debtors' estates and the right under applicable nonbankruptcy law to credit bid claims secured by such liens shall have the right to credit bid all or a portion of the value of such Qualified Bidder's claims pursuant to section 363(k) of the Bankruptcy Code with respect to the collateral by which such Qualified Bidder's claim is secured.

Failure to Receive Qualified Bids Other Than Stalking Horse Bid

If the Debtors do not receive any Qualified Bids (other than the Stalking Horse Bid) for any of the Assets on the same or better terms as provided in the Stalking Horse Bid by the Bid Deadline, the Debtors will not conduct the Auction and shall file a notice with the Bankruptcy Court by **July 21, 2025, at 4:00 p.m. (prevailing Central Time)**, or as soon as practicable thereafter, indicating that the Auction has been cancelled. The Debtors shall also publish such notice on the Claims Agent Website. If the Debtors, in consultation with the Consultation Parties, determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed a Successful Bid.

⁹ "**DIP Order**" means the interim or final order, as applicable, approving *Emergency Motion of Debtors for Interim and Final Orders (I) Authorizing Debtors to (A) Obtain Postpetition Financing and (B) Use Cash Collateral, (II) Granting Liens and Providing Claims with Superpriority Administrative Expense Status, (III) Granting Adequate Protection to Prepetition Secured Parties, (IV) Modifying Automatic Stay, and (V) Granting Related Relief* (Docket No. 46).

Deposit

A Bid must be accompanied by a good faith cash deposit in the amount of no less than 10% of the Purchase Price (a “**Deposit**”); provided that, a Potential Bidder submitting a credit bid will not be required to accompany its Bid with a Deposit for any portion of the Purchase Price that is a credit bid, but shall be required to provide a Deposit for any portion of its Bid that is not a credit bid. A Deposit must be deposited prior to the Bid Deadline with an escrow agent selected by the Debtors (the “**Escrow Agent**”) pursuant to an escrow agreement to be provided by the Debtors. To the extent a Qualified Bidder increases the Purchase Price before, during, or after the Auction, such Qualified Bidder shall promptly, and in no event more than one business day thereafter, adjust its Deposit so that it equals 10% the increased Purchase Price. The requirements set forth in this “Deposit” section do not apply to the Stalking Horse Bidder and shall be governed instead by the Stalking Horse Agreement.

Auction Procedures

If the Debtors, in consultation with the Consultation Parties, receive any Qualified Bids (other than the Stalking Horse Bid) with respect to the same or overlapping Assets or group of Assets, the Debtors will conduct the Auction on **July 22, 2025 at 8:00 a.m. (prevailing Central Time), at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually**, pursuant to procedures to be announced to bidders, or at such other date, time, and location as shall be timely communicated to all parties entitled to attend the Auction. Only Qualified Bidders will be eligible to participate in the Auction, subject to such limitations as the Debtors may impose in good faith. In addition, professionals and/or other representatives of the Debtors and the Consultation Parties shall be permitted to attend and observe the Auction.

Each Qualified Bidder shall be required to confirm, both before and after the Auction, that it has not engaged in any collusion with respect to the submission of any Bid, the bidding, or the Auction.

At the Auction, bidding for the Assets will start with the highest or otherwise best purchase price and/or terms received as determined by the Debtors in their sole discretion and will proceed thereafter in minimum bid increments of not less than \$1,000,000 (a “**Minimum Overbid Amount**”). The Debtors, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), reserve the right to and may increase or decrease the Minimum Overbid Amount at any time during the Auction. The Stalking Horse Bidder and other Qualified Bidders may increase their bids at the Auction, including with cash, cash equivalents, or other forms of consideration.

The Debtors, in consultation with the Consultation Parties, may adopt rules for the Auction consistent with these Bidding Procedures and the Bidding Procedures Order that the Debtors, in consultation with the Consultation Parties, reasonably determine to be appropriate to promote a competitive auction. Any rules adopted by the Debtors will not unilaterally modify any of the terms of the Stalking Horse Bid (which may be consensually modified at the Auction), without the

consent of the Stalking Horse Bidder. The Auction will be conducted openly and shall be transcribed or recorded.

The Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), in the exercise of their business judgment, identify the highest or otherwise best Qualified Bid(s) as the successful Bid(s) (a “**Successful Bid**” and, the bidder submitting such Bid, a “**Successful Bidder**”). The Debtors may also, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders), identify which Qualified Bid constitutes the second highest or otherwise best Bid (the “**Back-Up Bid**” and, the bidder submitting such Bid, the “**Back-Up Bidder**”). The Back-Up Bid shall remain open and irrevocable until the earliest to occur of (i) consummation of the Sale Transaction with a Successful Bidder, and (ii) the release of such Back-Up Bid by the Debtors in writing (such date, the “**Back-Up Termination Date**”). If a Sale Transaction with a Successful Bidder is terminated prior to the Back-Up Termination Date, the Back-Up Bidder shall be deemed a Successful Bidder and shall be obligated to consummate the Back-Up Bid as if it were a Successful Bid; provided that if the Stalking Horse Bid is deemed the Back-Up Bid, the Stalking Horse Bidder shall only be obligated to consummate the Back-Up Bid in accordance with the terms of the Stalking Horse Agreement. For the avoidance of doubt, nothing in this “Auction Procedures” section shall alter the requirement that, if the Debtors, in consultation with the Consultation Parties, determine that they received no Qualified Bids other than the Stalking Horse Bid, the Stalking Horse Bidder shall be deemed the Successful Bidder and the Stalking Horse Bid shall be deemed a Successful Bid.

Notwithstanding anything herein or the Bidding Procedures Order to the contrary, whether or not an Auction is held, if the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors, in consultation with the Consultation Parties, may designate a Back-Up Bidder as the Successful Bidder and such Back-Up Bidder’s Back-Up Bid as the Successful Bid by filing a notice to such effect with the Bankruptcy Court in these chapter 11 cases (the “**Back-Up Bid Implementation Notice**”) and serving such notice on the Sale Notice Parties (as defined in the Bidding Procedures Motion) and, if so designated, the Debtors shall seek to consummate the Sale Transaction pursuant to the Back-Up Bid; provided that if the Stalking Horse Bid is deemed the Back-Up Bid, the Stalking Horse Bidder shall only be obligated to consummate the Back-Up Bid in accordance with the terms of the Stalking Horse Agreement. As soon as practicable after the Debtors file the Back-Up Bid Implementation Notice, if necessary, the Debtors shall file a motion with the Bankruptcy Court seeking approval of assumption and assignment procedures for unexpired leases and executory contracts in connection with such Back-Up Bid.

At any time before entry of an order approving any Sale Transaction, the Debtors reserve the right to and may reject any Bid or any Qualified Bid (other than the Stalking Horse Bid) if such Qualified Bid, in the Debtors’ judgment, is: (i) inadequate or insufficient; (ii) not in conformity with the requirements of the Bankruptcy Code, these Bidding Procedures, or the terms and conditions of the applicable Sale Transaction; or (iii) contrary to the best interests of the Debtors and their estates. No attempt by the Debtors to reject any Bid or any Qualified Bid under this paragraph will modify any rights of the Debtors or the Stalking Horse Bidder under the Stalking

Horse Agreement (as it may be consensually modified in writing by the Debtors and the Stalking Horse Bidder at the Auction or prior thereto).

Post-Auction Process

Within one business day after the conclusion of the Auction, if one is held, or as soon as reasonably practicable thereafter, the Debtors shall file with the Bankruptcy Court and post on the Claims Agent Website a notice of the Successful Bid(s), Successful Bidder(s), Back-Up Bid(s), and Back-Up Bidder(s). Unless otherwise required by applicable law or the Debtors' fiduciary duties, the Debtors shall not consider any Bids submitted after the conclusion of the Auction.

The Successful Bidder shall appear at the Sale Hearing (as defined herein) and be prepared to have a representative(s) testify in support of its Successful Bid and the Successful Bidder's ability to close in a timely manner and provide adequate assurance of its future performance under all executory contracts and unexpired leases to be assumed and assigned as part of the applicable Sale Transaction. Within seven calendar days after the Auction (if any), the Debtors shall direct the Escrow Agent to return the Deposits of all bidders, together with interest accrued thereon, other than the Deposits of the Successful Bidder(s) and Back-Up Bidder(s); provided that, for the avoidance of doubt, the return of the Escrowed Funds (as defined in the Stalking Horse Agreement) shall be governed by the Stalking Horse Agreement. Within five business days after the Back-Up Termination Date, the Debtors shall direct the Escrow Agent to return the Deposit(s) of the Back-Up Bidder(s), together with interest accrued thereon (if any); provided that, for the avoidance of doubt, the return of the Escrowed Funds shall be governed by the Stalking Horse Agreement.

The Successful Bidder's deposit (if any) shall be applied against the portion of the Purchase Price of its Successful Bid upon the consummation of the applicable Sale Transaction. In addition to the foregoing, the deposit of any Qualified Bidder will be forfeited to the Debtors if (i) the Qualified Bidder attempts to modify, amend, or withdraw its Qualified Bid, except as permitted herein or with the Debtors' written consent, during the time the Qualified Bid remains binding and irrevocable or (ii) except as provided herein, the Qualified Bidder is selected as a Successful Bidder and fails to enter into the required definitive documentation or to consummate the applicable Sale Transaction in accordance with these Bidding Procedures; provided that this paragraph shall not apply to the Escrowed Funds, and such Escrowed Funds shall be treated as set forth in the Stalking Horse Agreement.

Notices Regarding Assumption and Assignment

The Debtors shall provide all notices regarding the proposed assumption and assignment of contracts and leases no later than July 24, 2025, and in accordance with the Assumption and Assignment Procedures included in the Bidding Procedures Order.

Sale Hearing

The Debtors intend to proceed with the Sale Transaction pursuant to section 363 of the Bankruptcy Code and will seek entry of an order authorizing and approving, among other things, the applicable Sale Transaction (the "**Sale Order**") at a hearing before the Bankruptcy Court to be held on **August 1, 2025, at 1:00 p.m. (prevailing Central Time)** (the "**Sale Hearing**"). The objection deadline for any Sale Transaction to be approved at the Sale Hearing will be **July 28,**

2025, at 4:00 p.m. (prevailing Central Time) (the “Sale Objection Deadline”). The Sale Hearing may be adjourned or continued to a later date by the Debtors, after consultation with the Stalking Horse Bidder and counsel to the OpCo Lenders and DIP Lenders, by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

Objections to any Sale Transactions, including any objection to the sale of any Assets free and clear of liens, claims, encumbrances, and other interests (each, a **“Sale Objection”**), must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (iii) state with particularity the basis and nature of any objection, and provide proposed language that, if accepted and incorporated by the Debtors, would obviate such objection; (iv) conform to the Bankruptcy Code, Bankruptcy Rules, and Local Bankruptcy Rules; (v) be filed with the Bankruptcy Court; and (vi) be served upon the following parties by the Sale Objection Deadline: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Stephen Castro, Esq. (stephen.castro@nortonrosefulbright.com)); (f) counsel to the Official Committee of Unsecured Creditors, McDermott Will & Emery LLP, 2801 North Harwood Street, Suite 2600, Dallas, TX 75201 (Attn: Charles Gibbs, Esq (crgibbs@mwe.com)) and McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017-3852 (Attn: Darren Azman, Esq. (dazman@mwe.com), Kristin Going, Esq. (kgoing@mwe.com), and Gregg Steinman, Esq. (gsteinman@mwe.com)); (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the **“Objection Notice Parties”**). In addition to being filed with the Bankruptcy Court, any such responses or objections must be served on the Objection Notice Parties and any such other parties as the Bankruptcy Court may order, by the Sale Objection Deadline; provided that the Debtors may extend such Sale Objection Deadline, as the Debtors deem appropriate. If a timely Sale Objection cannot otherwise be resolved by the

parties, such objection shall be heard by the Bankruptcy Court at the applicable sale hearing (which may be the Sale Hearing).

ANY PARTY WHO FAILS TO FILE A SALE OBJECTION WITH THE BANKRUPTCY COURT AND SERVE IT ON THE OBJECTION NOTICE PARTIES BY JULY 28, 2025 AT 4:00 P.M. (PREVAILING CENTRAL TIME) WILL BE FOREVER BARRED FROM ASSERTING, AT THE SALE HEARING OR THEREAFTER, ANY OBJECTION TO THE CONSUMMATION OF THE APPLICABLE SALE TRANSACTION AND ANY RELATED RELIEF REQUESTED BY THE DEBTORS.

Consent to Jurisdiction and Authority as Condition to Bidding

All Potential Bidders (including the Stalking Horse Bidder) that participate in the bidding process shall be deemed to have (i) consented and submitted to the jurisdiction and core authority of the Bankruptcy Court with respect to these Bidding Procedures, the bidding process, the Auction, any Sale Transaction, the Sale Hearing, or the construction and enforcement of any agreement or any other document relating to a Sale Transaction, (ii) waived any right to a jury trial in connection with any disputes relating to any of the foregoing, and (iii) consented to the entry of a final order or judgment in any way related to any of the foregoing if it is determined that the Bankruptcy Court would lack authority to enter such a final order or judgment absent the consent of the parties.

Reservation of Rights

The Debtors reserve the right to, in their reasonable business judgment, in consultation with the Consultation Parties, in a manner consistent with their fiduciary duties and applicable law: (i) to modify these Bidding Procedures; (ii) waive terms and conditions set forth herein with respect to all Potential Bidders; (iii) extend the deadlines set forth herein; (iv) announce at the Auction the modified or additional procedures for conducting the Auction; and (v) provide reasonable accommodations to the Stalking Horse Bidder with respect to such terms, conditions, and deadlines of the bidding and Auction process to promote further Bids on any Assets, in each case, to the extent not materially inconsistent with these Bidding Procedures and the Bidding Procedures Order; provided that any such modification or other adjustment to the Bidding Procedures shall not disproportionately affect the Stalking Horse Bidder in any material adverse way. Except as provided in the Stalking Horse Agreement, nothing in these Bidding Procedures shall obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

Fiduciary Out

Nothing in these Bidding Procedures shall require the Debtors to take any action, or refrain from taking any action, to the extent the Debtors determine, following the receipt of advice of counsel, that taking such action, or refraining from taking such action, as applicable, is required to comply with applicable law or its fiduciary obligations under applicable law.

Exhibit 2

Stalking Horse Agreement

Exhibit 3

Sale Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	

NOTICE OF SALE, BIDDING PROCEDURES, AUCTION, AND SALE HEARING

On May 28, 2025, Everstream Solutions LLC and its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a motion (Docket No. 57) (the “**Motion**”)² for the entry of an order (the “**Bidding Procedures Order**”): (i) approving the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as **Exhibit 1**; (ii) authorizing the Debtors to designate the Stalking Horse Bidder (as defined herein); (iii) approving certain protections for the Stalking Horse Bidder; (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling the hearing (the “**Sale Hearing**”) with respect to the approval of the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business, the MO Divested Business (each, as defined in the Stalking Horse Agreement), and any other assets the Successful Bidder or Back-Up Bidder elects not to purchase, to the Successful Bidder or the Back-Up Bidder pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”); (v) authorizing and approving the form and manner of the Sale Notice; (vi) approving the procedures (the “**Assumption and Assignment Procedures**”) set forth in the Bidding Procedures Order for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder (collectively, the “**Transferred Contracts**”) and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”); (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the Successful Bidder and of the Debtors’ calculation of the Cure

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein or in the Motion), as applicable.

Costs, substantially in the form attached to the Bidding Procedures Order as **Exhibit 4** (the “**Cure Notice**”); and (viii) granting related relief.

On [●], 2025, the Bankruptcy Court entered the Bidding Procedures Order (Docket No. [●]) approving, among other things, the Bidding Procedures, which establishes the key dates and times related to the Auction, the Sale, and the Sale Hearing. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.³

Stalking Horse Bid

A binding stalking horse bid (the “**Stalking Horse Bid**”) has been submitted by Bluebird MidWest, LLC (the “**Stalking Horse Bidder**”), an indirect subsidiary of Bluebird Network, LLC, a regional internet and data service provider and data center operator. On May 22, 2025, the Debtors executed an asset purchase agreement with the Stalking Horse Bidder (the “**Stalking Horse Agreement**”)⁴ for the purchase of substantially all of the Debtors’ Assets, other than the PA Business (as defined in the Stalking Horse Agreement). The Stalking Horse Bid is subject to higher or otherwise better offers submitted in accordance with the terms and provisions of the Bidding Procedures.

Important Dates and Deadlines

- **Bid Deadline.** Any person or entity interested in participating in the Auction for the sale of the Debtors’ business must submit a Qualified Bid on or before **July 17, 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Bid Deadline**”).
- **Auction.** If the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), receive any Qualified Bids (other than the Stalking Horse Bid) with respect to the same or overlapping Assets or group of Assets, the Debtors will conduct the Auction on **July 22, 2025, at 8:00 a.m. (prevailing Central Time)**, at (i) the offices of Weil, Gotshal & Manges LLP, 767 Fifth Avenue, New York, New York 10153 and/or (ii) virtually, pursuant to procedures to be announced to bidders, or at such other time and location as the Debtors, in consultation with the Consultation Parties, after providing notice to the Stalking Horse Bidder and the Qualified Bidders (as defined in the Bidding Procedures), may determine in their reasonable business judgment.
- **Sale Order.** The Debtors shall file a form of order approving the Sale no later than **July 24, 2025, at 4:00 p.m. (prevailing Central Time)**.
- **Sale Objection Deadlines.** Objections to the Sale (a “**Sale Objection**”), including any objection to the sale of the Debtors’ business free and clear of all claims and interests pursuant to section 363(f) of the Bankruptcy Code, must be filed with the Bankruptcy Court and served on the Objection Notice Parties (as defined herein) so as to be received on or

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms in the Bidding Procedures shall control in all respects.

⁴ The Stalking Horse Agreement is attached as **Exhibit 2** to the Bidding Procedures Order.

before **July 28, 2025, at 4:00 p.m. (prevailing Central Time)** (the “**Sale Objection Deadline**”).

- **Sale Hearing.** A hearing to approve and authorize the Sale of the Debtors’ business to the Successful Bidder or the Back-Up Bidder will be held before the Honorable Christopher Lopez, in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street, Courtroom 401, Houston, Texas 77002, on or before **August 1, 2025, at 1:00 p.m. (prevailing Central Time)**, or such other date as determined by the Court.

The Debtors intend to proceed with the Sale pursuant to section 363 of the Bankruptcy Code and intend to seek approval thereof at the Sale Hearing. The Sale Hearing may be adjourned or continued to a later date by the Bankruptcy Court, or by the Debtors by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

If the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders) (each, as defined in the Bidding Procedures), designate the Back-Up Bidder as the Successful Bidder and such Back-Up Bidder’s Back-Up Bid as the Successful Bid upon the filing of a notice to such effect with the Court (the “**Back-Up Bid Implementation Notice**”). The Debtors will serve the Back-Up Bid Implementation Notice pursuant to the Bidding Procedures Order and, if so designated, the Debtors will seek to consummate the Sale Transaction pursuant to such Back-Up Bid.

Filing Objections

Sale Objections must: (i) be in writing; (ii) state the name and address of the objecting party and the amount and nature of the claim or interest of such party; (iii) state with particularity the basis and nature of any objection, and provide proposed language that, if accepted and incorporated by the Debtors, would obviate such objection; (iv) conform to the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules; (v) be filed with the Bankruptcy Court; and (vi) be served upon the following parties by the Sale Objection Deadline: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com), Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and

Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Stephen Castro, Esq. (stephen.castro@nortonrosefulbright.com)); (f) counsel to the Official Committee of Unsecured Creditors, McDermott Will & Emery LLP, 2801 North Harwood Street, Suite 2600, Dallas, TX 75201 (Attn: Charles Gibbs, Esq (crgibbs@mwe.com)) and McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017-3852 (Attn: Darren Azman, Esq. (dazman@mwe.com), Kristin Going, Esq. (kgoing@mwe.com), and Gregg Steinman, Esq. (gsteinman@mwe.com)); (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”). The Debtors may extend the Sale Objection Deadline as the Debtors deem appropriate.

ANY PARTY THAT FAILS TO FILE A SALE OBJECTION WITH THE BANKRUPTCY COURT AND SERVE IT ON THE OBJECTION NOTICE PARTIES BY JULY 28, 2025, AT 4:00 P.M. (PREVAILING CENTRAL TIME) WILL BE FOREVER BARRED FROM ASSERTING, AT THE SALE HEARING OR THEREAFTER, ANY OBJECTION TO THE CONSUMMATION OF THE APPLICABLE SALE TRANSACTION AND ANY RELATED RELIEF REQUESTED BY THE DEBTORS.

Additional Information

The Bidding Procedures set forth the requirements for becoming a Qualified Bidder and submitting a Qualified Bid, and any party interested in making an offer to purchase the Debtors’ business must comply with the Bidding Procedures. Only Qualified Bids will be considered by the Debtors, in accordance with the Bidding Procedures.

Any party interested in submitting a bid should contact the Debtors’ investment bankers, Bank Street Group LLC (“**Bank Street**”) at projectlightspeed@bankstreet.com, and PJT Partners LP (“**PJT Partners**”) at lightspeedRSSGProjectPJT@pjtpartners.com and legal advisor, Weil, Gotshal & Manges LLP at everstream.bids@weil.com, as soon as possible.

Copies of the Motion, the Bidding Procedures Order, and the Bidding Procedures, as well as all related exhibits, the Stalking Horse Bid, and all other agreements filed with the Court, may be obtained free of charge at the website dedicated to the Debtors’ chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <http://cases.stretto.com/everstream> or can be requested by e-mail at everstreaminquiries@stretto.com.

Reservation of Rights

Except as otherwise set forth herein and in the Bidding Procedures, the Debtors reserve the right to, in their reasonable business judgment, in consultation with the Consultation Parties, in a manner consistent with their fiduciary duties and applicable law: (i) modify the Bidding

Procedures; (ii) waive terms and conditions set forth therein with respect to all Potential Bidders; (iii) extend the dates and deadlines set forth therein; (iv) announce at the Auction the modified or additional procedures for conducting the Auction; and (v) provide reasonable accommodations to the Stalking Horse Bidder with respect to such terms, conditions, and deadlines of the bidding and Auction process to promote further bids on any Assets, in each case, to the extent not materially inconsistent with the Bidding Procedures and the Bidding Procedures Order; provided that any such modification or other adjustment to the Bidding Procedures shall not disproportionately affect the Stalking Horse Bidder in any material adverse way. Except as provided in the Stalking Horse Agreement, nothing in the Bidding Procedures shall obligate the Debtors to consummate or pursue any transaction with respect to any Asset with a Qualified Bidder.

FAILURE TO ABIDE BY THE BIDDING PROCEDURES, THE BIDDING PROCEDURES ORDER, OR ANY OTHER ORDER OF THE BANKRUPTCY COURT IN THESE CHAPTER 11 CASES MAY RESULT IN THE REJECTION OF YOUR BID.

THE FAILURE OF ANY PERSON OR ENTITY TO FILE AND SERVE AN OBJECTION IN ACCORDANCE WITH THE BIDDING PROCEDURES ORDER BY THE SALE OBJECTION DEADLINE SHALL FOREVER BAR SUCH PERSON OR ENTITY FROM ASSERTING ANY OBJECTION TO THE MOTION, THE ORDER APPROVING THE SALE TRANSACTION, THE PROPOSED SALE TRANSACTION, OR THE DEBTORS' CONSUMMATION OF THE STALKING HORSE BID OR ANY OTHER AGREEMENT EXECUTED BY THE DEBTORS AND THE SUCCESSFUL BIDDER OR BACK-UP BIDDER.

Dated: [●], 2025
Houston, Texas

WEIL, GOTSHAL & MANGES LLP
Gabriel A. Morgan (24125891)
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-and-

WEIL, GOTSHAL & MANGES LLP
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*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit 4

Cure Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	

**NOTICE OF CURE COSTS AND
ASSUMPTION AND ASSIGNMENT OF EXECUTORY CONTRACTS
AND UNEXPIRED LEASES IN CONNECTION WITH SALE TRANSACTION**

On May 28, 2025, Everstream Solutions LLC and its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a motion (Docket No. 57) (the “**Motion**”)² for the entry of an order (the “**Bidding Procedures Order**”): (i) approving the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as **Exhibit 1**; (ii) authorizing the Debtors to designate the Stalking Horse Bidder (as defined herein); (iii) approving certain protections for the Stalking Horse Bidder; (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling the hearing (the “**Sale Hearing**”) with respect to the approval of the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business, the MO Divested Business (each, as defined in the Stalking Horse Agreement), and any other assets the Successful Bidder or Back-Up Bidder elects not to purchase, to the Successful Bidder or the Back-Up Bidder pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”); (v) authorizing and approving the form and manner of the Sale Notice; (vi) approving the procedures (the “**Assumption and Assignment Procedures**”) set forth in the Bidding Procedures Order for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder (collectively, the “**Transferred Contracts**”) and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”); (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of the Transferred Contracts to the Successful Bidder and of the Debtors’ calculation of the Cure

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein or in the Motion), as applicable.

Costs, substantially in the form attached to the Bidding Procedures Order as **Exhibit 4** (the “Cure Notice”); and (viii) granting related relief.

On [●], 2025, the Bankruptcy Court entered the Bidding Procedures Order (Docket No. [●]) approving, among other things, the Bidding Procedures, which establishes the key dates and times related the Auction and Sale Hearing.³ Recipients of this Notice should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.

[On July 24, 2025, the Debtors filed the *Notice of Designation of Successful Bidder and Back-Up Bidder*, (Docket No. [●]), which designates (i) [●] as the Successful Bidder and that certain [●], dated [●], 2025, as the Successful Bid and (ii) [●] as the Back-Up Bidder and that certain [●], dated [●], 2025, as the Back-Up Bid.]⁴

YOU ARE RECEIVING THIS NOTICE BECAUSE YOU MAY BE A COUNTERPARTY TO A TRANSFERRED CONTRACT. Each of the Transferred Contracts that may be assumed and assigned in connection with a Sale Transaction with the Successful Bidder and the Debtors’ calculation of the Cure Costs with respect thereto are set forth on **Exhibit A** hereto. The Cure Costs are the only amounts proposed to be paid upon the assumption and assignment of the Transferred Contracts.

Key Dates

The key dates for the sale process are as follows. Such dates may be extended or otherwise modified by the Debtors, in consultation with the Consultation Parties (as defined in the Bidding Procedures), by filing a notice of such extension or modification on the Court’s docket:

- **Cure Objection Deadline.** Objections to the Debtors’ proposed Cure Costs of any Transferred Contract listed on **Exhibit A** (each, a “Cure Objection”) must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including what Cure Costs the objecting party believes are required, (iv) include any supporting documentation thereof, and (v) be filed with the Bankruptcy Court and served on the Objection Notice Parties (as defined herein) on or before **July 28, 2025, at 4:00 p.m. (prevailing Central Time)**.
- **Adequate Assurance Objection Deadline.** Objections to the adequate assurance of future performance of any Transferred Contract listed on **Exhibit A** (each, an “Adequate Assurance Objection”) must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including what Cure Costs the objecting party believes are required, (iv) include any supporting documentation thereof, and (v) be

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms in the Bidding Procedures shall control in all respects.

⁴ **[Note to Draft:** To remove if Cure Notice is filed prior to deadline to designate Successful Bidder.]

filed with the Bankruptcy Court and served on the Objection Notice Parties on or before **July 28, 2025, at 4:00 p.m. (prevailing Central Time)**.

- **Sale Hearing.** A hearing to approve and authorize the Sale of the Debtors' business to the Successful Bidder or the Back-Up Bidder will be held before the Honorable Christopher Lopez, in the United States Bankruptcy Court for the Southern District of Texas, 515 Rusk Street., Courtroom 401, Houston, TX 77002 on or before **August 1, 2025, at 1:00 p.m. (prevailing Central Time)**, or such other date as determined by the Bankruptcy Court.

If you have more than one Transferred Contract identified on **Exhibit A**, an objection with respect to one Transferred Contract shall have no impact on the other Transferred Contract(s) to which you are a party for which no objection has been filed and served. If a timely Cure Objection or Adequate Assurance Objection is received and such objection cannot otherwise be resolved by the parties, such objection shall be heard at the Sale Hearing or such later date as the Debtors determine prior to the scheduled Closing (as defined in the Stalking Horse Agreement) of the Sale Transaction.

The Debtors intend to proceed with the Sale pursuant to section 363 of the Bankruptcy Code and intend to seek approval thereof at the Sale Hearing. The Sale Hearing may be adjourned by the Bankruptcy Court or the Debtors from time to time without further notice other than by announcement in open court or through the filing of a notice or other document on the Bankruptcy Court's docket.

The Debtors request that if you (i) dispute the assumption of a Transferred Contract or (ii) have a Cure Objection or an Adequate Assurance Objection, you contact the Debtors prior to **July 28, 2025, at 4:00 p.m. (prevailing Central Time)** to attempt to resolve such dispute consensually. The Debtors' contact for such matters is Taylor Jones, Esq., at (212) 310-8805, or by e-mail at taylor.jones@weil.com. If such dispute cannot be resolved consensually prior to **July 28, 2025, at 4:00 p.m. (prevailing Central Time)**, you must file and serve an objection by the deadlines set forth above and in accordance with the procedures set forth in this Notice to preserve your right to object.

Filing Objections

A. Cure Objections

Any objection to the proposed assumption, assignment, or potential designation of an Transferred Contract identified on **Exhibit A**, the subject of which objection is the Debtors' proposed Cure Costs, if any, must (i) be in writing, (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules, (iii) state, with specificity, the legal and factual basis thereof, including, with respect to a Cure Objection, what Cure Costs the objecting party believes are required, (iv) include any appropriate documentation in support thereof, (v) be filed with the Court by no later than **July 28, 2025, at 4:00 p.m. (prevailing Central Time)**, and served on: (a) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, OH 44115 (Attn: Bill Hunt, Esq. (bhunt@everstream.net)); (b) proposed counsel for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, TX 77002 (Attn: Gabriel A. Morgan, Esq. (gabriel.morgan@weil.com) and Clifford W. Carlson, Esq. (clifford.carlson@weil.com)) and 767 Fifth Avenue, New York, NY 10053 (Attn: Matthew S. Barr, Esq. (matt.barr@weil.com)),

Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Mariel E. Cruz, Esq. (mariel.cruz@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (c) counsel to the OpCo Agent, on behalf of the OpCo Lenders, the DIP Agent, and the HoldCo Lenders, Paul Hastings LLP, 200 Park Avenue, New York, NY 10166 (Attn: Jayme Goldstein, Esq. (jaymegoldstein@paulhastings.com), Jeremy Evans, Esq. (jeremyevans@paulhastings.com), and Charles Persons, Esq. (charlespersons@paulhastings.com)); (d) counsel to the Sponsor, Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Christopher Marcus, Esq., (christopher.marcus@kirkland.com) Emily Geier, Esq., (emily.geier@kirkland.com) and Aaron Metviner, Esq. (aaron.metviner.@kirkland.com)); (e) counsel to the HoldCo Agent, Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, NY 10019-6022 (Attn: Stephen Castro, Esq. (stephen.castro@nortonrosefulbright.com)); (f) counsel to the Official Committee of Unsecured Creditors, McDermott Will & Emery LLP, 2801 North Harwood Street, Suite 2600, Dallas, TX 75201 (Attn: Charles Gibbs, Esq (crgibbs@mwe.com)) and McDermott Will & Emery LLP, One Vanderbilt Avenue, New York, NY 10017-3852 (Attn: Darren Azman, Esq. (dazman@mwe.com), Kristin Going, Esq. (kgoing@mwe.com), and Gregg Steinman, Esq. (gsteinman@mwe.com)); (g) counsel to the Stalking Horse Bidder, Bluebird MidWest, LLC, Kirkland & Ellis LLP, 609 Main Street, Houston, TX 77002 (Attn: John Pitts, Esq. (john.pitts@kirkland.com) and Ben Hardison, Esq. (ben.hardison@kirkland.com)), Kirkland & Ellis LLP, 601 Lexington Avenue, New York, NY 10022 (Attn: Nicole Greenblatt, P.C. (nicole.greenblatt@kirkland.com)), and Kirkland & Ellis LLP, 333 West Wolf Point Plaza, Chicago, IL 60654 (Attn: Lindsey Blumenthal, Esq. (lindsey.blumenthal@kirkland.com)); and (h) the United States Trustee for the Southern District of Texas, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Jayson Ruff, Esq.) (collectively, the “**Objection Notice Parties**”).

IF A COUNTERPARTY FAILS TO FILE WITH THE BANKRUPTCY COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY CURE OBJECTION, THE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO THE AMOUNT TO CURE ANY DEFAULT UNDER THE APPLICABLE TRANSFERRED CONTRACT. THE CURE COSTS SET FORTH ON EXHIBIT A HERETO SHALL BE CONTROLLING AND WILL BE THE ONLY AMOUNT NECESSARY TO CURE OUTSTANDING DEFAULTS UNDER THE APPLICABLE TRANSFERRED CONTRACT UNDER BANKRUPTCY CODE SECTION 365(B), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE TRANSFERRED CONTRACT, OR ANY OTHER DOCUMENT, AND THE APPLICABLE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY ADDITIONAL CURE OR OTHER AMOUNTS WITH RESPECT TO SUCH TRANSFERRED CONTRACT AGAINST THE DEBTORS, ANY SUCCESSFUL BIDDER, OR THE PROPERTY OF ANY OF THEM.

Any Transferred Contract(s) may be assumed and assigned to the Successful Bidder (or any other entity contemplated by the Successful Bid) if a non-Debtor party to a Transferred Contract has objected solely to the proposed Cure Cost, the Debtors may pay the undisputed portion of such Cure Cost and place the disputed amount in a segregated account pending further order of the Court or mutual agreement of the parties. So long as such disputed amounts are held in such segregated account, the Debtors may, without delay, assume and assign such Transferred Contract to the applicable assignee. Under such circumstances, the objecting non-Debtor counterparty's recourse is limited to the funds held in such segregated account.

B. Adequate Assurance Objections

Adequate Assurance Objections with respect to the assumption and assignment of any Transferred Contracts identified on **Exhibit A** to the Successful Bidder or as otherwise contemplated by the Successful Bid must (i) be in writing; (ii) comply with the Bankruptcy Code, Bankruptcy Rules, and Bankruptcy Local Rules; (iii) state, with specificity, the legal and factual basis thereof, including, with respect to a Cure Objection, what Cure Costs the objecting party believes are required; (iv) include any appropriate documentation in support thereof; (v) be filed with the Court by no later than **July 28, 2025, at 4:00 p.m. (prevailing Central Time)**, and served on the Objection Notice Parties.

IF A COUNTERPARTY FAILS TO FILE WITH THE BANKRUPTCY COURT AND SERVE ON THE OBJECTION NOTICE PARTIES A TIMELY ADEQUATE ASSURANCE OBJECTION, THE COUNTERPARTY SHALL BE FOREVER BARRED FROM ASSERTING ANY OBJECTION WITH REGARD TO ADEQUATE ASSURANCE OF FUTURE PERFORMANCE OF THE APPLICABLE TRANSFERRED CONTRACT. THE SUCCESSFUL BIDDER (OR ANY OTHER ENTITY CONTEMPLATED BY THE SUCCESSFUL BID) SHALL BE DEEMED TO HAVE PROVIDED ADEQUATE ASSURANCE OF FUTURE PERFORMANCE WITH RESPECT TO THE APPLICABLE TRANSFERRED CONTRACT IN ACCORDANCE WITH BANKRUPTCY CODE SECTION 365(F)(2)(B), NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE TRANSFERRED CONTRACT OR ANY OTHER DOCUMENT.

Additional Information

Copies of the Motion, the Bidding Procedures Order, and the Bidding Procedures, as well as all related exhibits, the Successful Bid, Back-Up Bid, and all other agreements filed with the Court, may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <http://cases.stretto.com/everstream> or can be requested by e-mail at everstreaminquiries@stretto.com.

Reservation of Rights

The inclusion of any contract or lease on **Exhibit A** shall not constitute or be deemed a determination or admission by the Debtors that such contract or other document is, in fact, an executory contract or unexpired lease within the meaning of the Bankruptcy Code (all rights with respect thereto being expressly reserved).

Dated: [●], 2025
Houston, Texas

WEIL, GOTSHAL & MANGES LLP
Gabriel A. Morgan (24125891)
Clifford W. Carlson (24090024)
700 Louisiana Street, Suite 3700
Houston, Texas 77002
Telephone: (713) 546-5000
Facsimile: (713) 224-9511
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clifford.carlson@weil.com

-and-

WEIL, GOTSHAL & MANGES LLP
Matthew S. Barr (admitted *pro hac vice*)
Andriana Georgallas (admitted *pro hac vice*)
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alexander.cohen@weil.com

*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit A

Schedule of Transferred Contracts

Exhibit 5

Post-Auction Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	

NOTICE OF DESIGNATION OF SUCCESSFUL BID AND BACK-UP BID

PLEASE TAKE NOTICE OF THE FOLLOWING:

On May 28, 2025, Everstream Solutions LLC and its affiliates, as debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “**Debtors**”) filed with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a motion (Docket No. 57) (the “**Motion**”)² for the entry of an order (the “**Bidding Procedures Order**”): (i) approving the Bidding Procedures, substantially in the form attached to the Bidding Procedures Order as Exhibit 1; (ii) authorizing the Debtors to designate the Stalking Horse Bidder (as defined herein); (iii) approving certain protections for the Stalking Horse Bidder; (iv) authorizing and scheduling an auction (the “**Auction**”) and scheduling the hearing (the “**Sale Hearing**”) with respect to the approval of the sale of all or substantially all of the Debtors’ assets other than the IL Divested Business, the MO Divested Business (each, as defined in the Stalking Horse Agreement), and any other assets the Successful Bidder or Back-Up Bidder elects not to purchase, to the Successful Bidder or the Back-Up Bidder pursuant to section 363 of the Bankruptcy Code (the “**Sale Transaction**”); (v) authorizing and approving the form and manner of the Sale Notice; (vi) approving the procedures (the “**Assumption and Assignment Procedures**”) set forth in the Bidding Procedures Order for the potential assumption and assignment of the Debtors’ executory contracts and unexpired leases to the Successful Bidder (collectively, the “**Transferred Contracts**”) and the determination of the amount necessary to cure any defaults thereunder (the “**Cure Costs**”); (vii) authorizing and approving the form and manner of notice to each relevant non-Debtor counterparty to a Transferred Contract (collectively, the “**Contract Counterparties**”) regarding the Debtors’ potential assumption and assignment of

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the First Day Declaration, the Bidding Procedures, the Bidding Procedures Order, or the Stalking Horse Agreement (each, as defined herein or in the Motion), as applicable.

the Transferred Contracts to the Successful Bidder and of the Debtors' calculation of the Cure Costs, substantially in the form attached to the Bidding Procedures Order as **Exhibit 4** (the "**Cure Notice**"); and (viii) granting related relief.

On [●], 2025, the Bankruptcy Court entered the Bidding Procedures Order (Docket No. [●]) approving, among other things, the Bidding Procedures, which establishes the key dates and times related to the Auction, the Sale, and the Sale Hearing. All interested bidders should carefully read the Bidding Procedures Order and the Bidding Procedures in their entirety.³

Pursuant to the Bidding Procedures Order, (i) the deadline for submitting a Qualified Bid was July 17, 2025, at 4:00 p.m. (prevailing Central Time) (the "**Bid Deadline**") and (ii) in the event that (x) the Debtors timely received one or more Qualifying Bids or (y) a Stalking Horse Bidder was selected and the Debtors receive a Qualifying Bid that the Debtors in their business judgment, in consultation with the Consultation Parties, determine to be the initial highest bid, the Debtors would conduct the Auction.

The Debtors conducted the Auction in accordance with the Bidding Procedures and certain rules distributed to Auction attendees prior to and at the Auction. The Auction began on July 22, 2025, and concluded on [●], 2025. At the Auction, the Debtors determined that the highest or best offer was submitted by [●] (the "**Successful Bidder**") and the Successful Bidder's winning bid, the "**Successful Bid**") and the second highest or best offer was submitted by [●] (the "**Back-Up Bidder**," and the Back-up Bidder's bid, the "**Back-Up Bid**").

Filed with this Notice as **Exhibit A** is a full and complete copy of the final asset purchase agreement (the "**Asset Purchase Agreement**") between the Debtors and the Successful Bidder, containing the terms of the Successful Bid. Mailed copies of this Notice include the Asset Purchase Agreement without its voluminous schedules.

The Asset Purchase Agreement may be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <https://cases.stretto.com/everstream>.

Important Dates and Deadlines

Sale Order

The Debtors shall file a form of order approving the Sale Transaction no later than **July 24, 2025, at 4:00 p.m. (prevailing Central Time)**.

Sale Objection Deadline:

Objections (the "**Objections**") to consummation of the Sale Transaction, if any, shall be filed with the Bankruptcy Court not later than **July 28, 2025, at 4:00 p.m. (prevailing Central**

³ To the extent of any inconsistencies between the Bidding Procedures and the summary descriptions of the Bidding Procedures in this notice, the terms in the Bidding Procedures shall control in all respects.

Time). Any Objections not resolved prior to the Sale Hearing shall be argued at the Sale Hearing or such other time as set by the Bankruptcy Court.

Sale Hearing:

The Debtors have requested that the Sale Hearing to approve the Sale Transaction be held electronically via video/telephone before the Bankruptcy Court before the Honorable Christopher Lopez on **August 1, 2025, at 1:00 p.m. (prevailing Central Time)**. If you wish to participate telephonically, you must use the Bankruptcy Court's teleconference system at **1-832-917-1510** and entering conference code **590153**. You may also join by videoconference by use of an internet connection via **GoToMeeting**. To use **GoToMeeting**, the Court recommends that you download the free **GoToMeeting** application. To connect, you should enter the meeting code "JUDGELOPEZ" in the **GoToMeeting** app or click on the link on Judge Lopez's home page on the Southern District of Texas website. Once connected, click the settings icon in the upper right corner and enter your name under the personal information setting. At such hearing, the Debtors will seek the entry of an order of the Bankruptcy Court approving and authorizing the Sale to the Successful Bidder on the terms and conditions of the Successful Bid. The Successful Bidder shall appear at the Sale Hearing and be prepared to testify in support of the Successful Bid and the Successful Bidder's ability to close in a timely manner, including with respect to demonstrating adequate assurance of future performance that may be required in connection with any Transferred Contracts.

The Sale Hearing may be adjourned or continued to a later date by the Bankruptcy Court, or by the Debtors by sending notice prior to or making an announcement at the Sale Hearing. No further notice of any such adjournment or continuance will be required to be provided to any party.

The Debtors' presentation to the Bankruptcy Court for approval of a Successful Bid does not constitute the Debtors' acceptance of the Successful Bid. The Debtors shall be deemed to have accepted a Successful Bid only when the Successful Bid has been approved by order of the Court.

If the Sale Transaction is not consummated with the Successful Bidder pursuant to the Successful Bid, the Debtors may, in consultation with the Consultation Parties and with the reasonable consent of the OpCo Agent (on behalf and at the direction of the Required OpCo Lenders) and the DIP Agent (on behalf and at the direction of the Required DIP Lenders) (each, as defined in the Bidding Procedures), designate the Back-Up Bidder as the Successful Bidder and such Back-Up Bidder's Back-Up Bid as the Successful Bid upon the filing of a notice to such effect with the Court (the "**Back-Up Bid Implementation Notice**"). The Debtors will serve the Back-Up Bid Implementation Notice pursuant to the Bidding Procedures Order and, if so designated, the Debtors will seek to consummate the Sale Transaction pursuant to such Back-Up Bid.

Additional Information

In addition to the Asset Purchase Agreement, copies of the Motion, the Bidding Procedures Order, and the Bidding Procedures may also be obtained free of charge at the website dedicated to the Debtors' chapter 11 cases maintained by their claims and noticing agent, Stretto, Inc., located at <https://cases.stretto.com/everstream>.

Dated: [●], 2025
Houston, Texas

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-and-

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*Proposed Attorneys for Debtors
and Debtors in Possession*

Exhibit A

Asset Purchase Agreement

EXHIBIT TM-12

ENTERED

June 20, 2025

Nathan Ochsner, Clerk

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re: §
§ **Chapter 11**
§
EVERSTREAM SOLUTIONS LLC, et al., § **Case No. 25-90144 (CML)**
§
§ **(Jointly Administered)**
§ **Re: Docket No. 61**
Debtors.¹

**ORDER (I) APPROVING PROCEDURES
TO REJECT UNEXPIRED LEASES AND EXECUTORY
CONTRACTS, (II) APPROVING ABANDONMENT OF PROPERTY
IN CONNECTION THEREWITH, AND (III) GRANTING RELATED RELIEF**

Upon the motion, dated May 28, 2025 (the “**Motion**”),² of Everstream Solutions LLC and its affiliated debtors in the above-captioned chapter 11 cases, as debtors and debtors in possession (collectively, the “**Debtors**”), pursuant to sections 105(a), 365, and 554 of the Bankruptcy Code and Bankruptcy Rules 6006, 6007, and 9014, the Debtors request (i) approval of procedures for rejecting Leases and Contracts (as defined in the Motion) and (ii) related relief, all as more fully set forth in the Motion; and upon consideration of the First Day Declaration; and this Court having jurisdiction and authority to consider the Motion and the relief requested therein pursuant to 28 U.S.C. §§ 157(a)–(b) and 1334(b); and consideration of the Motion and the requested relief being a core proceeding pursuant to 28 U.S.C. § 157(b); and it appearing that venue is proper before this Court pursuant to 28 U.S.C. §§ 1408 and 1409; and due and proper

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midcol LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

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

notice of the Motion having been provided; and such notice having been adequate and appropriate under the circumstances, and it appearing that no other or further notice need be provided; and this Court having reviewed the Motion; and upon any hearing held on the Motion; and all objections, if any, to the Motion having been withdrawn, resolved, or overruled; and this Court having determined that the legal and factual bases set forth in the Motion establish just cause for the relief granted herein; and it appearing that the relief requested in the Motion is in the best interests of the Debtors and their respective estates and creditors; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor,

IT IS HEREBY ORDERED THAT

1. The Debtors are authorized, but not directed, to reject Leases and Contracts in accordance with the following Rejection Procedures:

- a. **Rejection Notice.** The Debtors shall file one or more notices substantially in the form attached to this Order as **Exhibit 1** (each, a “**Rejection Notice**”) to reject Leases and Contracts pursuant to section 365 of the Bankruptcy Code, which Rejection Notice(s) shall set forth (i) the Leases or Contracts to be rejected, (ii) the Debtor(s) party to such Leases or Contracts, (iii) the names and addresses of the counterparties to such Leases or Contracts, (iv) the Rejection Date (as defined below), and (v) with respect to Leases, a general description of the personal property to be abandoned, if any. The Rejection Notice shall also set forth the deadlines and procedures for filing objections to the Rejection Notice (as set forth below). Each Rejection Notice may list multiple Leases and Contracts.
- b. **Rejection Date.** The rejection date for any Lease or Contract shall be the date set forth in the schedule of rejected Leases and Contracts annexed to such Rejection Notice; *provided* that the rejection date for real property Leases shall be the later of (i) the Debtors’ unequivocal surrender of the Leased Premises (as defined in the Motion) via the delivery of any keys, key codes, and alarm codes to the Leased Premises, each as applicable, to the applicable lease counterparty and (ii) in the absence of delivering such keys and codes, providing notice to the landlord or counterparty that such party may enter and re-let the Leased Premises (the “**Rejection Date**”).
- c. **Service of Rejection Notice.** The Debtors shall cause the Rejection Notice to be filed and served by overnight mail (and electronic mail, if

known) upon: (i) each Lease or Contract counterparty affected by such Rejection Notice and their counsel, if known; (ii) Paul Hastings LLP, 200 Park Avenue, New York, New York 10166 (Attn: Jayme Goldstein, Esq. and Jeremy Evans, Esq.) as counsel to the OpCo Agent on behalf of the OpCo Lenders, the DIP Agent on behalf of the DIP Lenders, and the HoldCo Lenders; (iii) Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, New York 10019-6022 (Attn: Michael Fingerhut, Esq.), as counsel to the HoldCo Agent; (iv) the Office of the United States Trustee for the Southern District of Texas (Attn: Jayson Ruff, Esq.); and (v) counsel to any statutory committee appointed in these chapter 11 cases (collectively, the “**Master Notice Parties**”).

- d. **Objection Procedures.** Any objection to a proposed rejection of Leases or Contracts³ (an “**Objection**”) must be in writing, filed with this Court, and served by electronic mail on the following parties (collectively, the “**Objection Service Parties**”) so as to be *actually received* by such parties no later than seven calendar days after the date the Debtors serve the relevant Rejection Notice (the “**Rejection Objection Deadline**”): (i) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, Ohio 44115 (Attn: Bill Hunt); (ii) the proposed attorneys for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, Texas 77002 and 767 Fifth Avenue, New York, New York 10153 (Attn: Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Gabriel A. Morgan (gabriel.morgan@weil.com), Clifford W. Carlson (clifford.carlson@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); and (iii) the Master Notice Parties.
- e. **No Objection.** If no Objection is filed and served by the Rejection Objection Deadline, each Lease or Contract listed in the applicable Rejection Notice shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the counterparty or counterparties to such Leases or Contracts agree.
- f. **Unresolved Objections.** If one or more Objections is timely filed and properly served as specified above and not withdrawn or resolved, the Debtors shall obtain a hearing date from this Court and file a notice for such hearing to consider the rejection of the Leases or Contracts implicated by such Objections and shall provide at least seven days’ notice of such hearing to each objecting party and the Objection Service Parties. If any such Objection is overruled or withdrawn, the Leases or Contracts that are the subject of such Objection shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as agreed by the

³ An Objection to a particular Lease or Contract listed on a Rejection Notice shall not constitute an Objection to any other Lease or Contract listed on such Rejection Notice, unless otherwise specified in such Objection.

parties or determined by this Court as set forth in any order overruling such Objection.

- g. ***Application of Deposits.*** If the Debtors have deposited monies with a Lease or Contract counterparty as a security deposit or other similar arrangement, such counterparty may not setoff, recoup, or otherwise use such monies without the prior authorization of this Court or consent of the Debtors.
- h. ***Abandoned Property.*** The Debtors are authorized at any time on or after the applicable Rejection Date, to abandon any of the Debtors' personal property that may be located on the Debtors' Leased Premises that are subject to a rejected Lease or Contract. The Debtors shall generally describe the abandoned personal property in the Rejection Notice. Absent a timely objection, the property shall be deemed abandoned pursuant to section 554 of the Bankruptcy Code, as is, effective as of the Rejection Date. Landlords and other counterparties may, in their sole discretion and without further order of this Court, utilize, or dispose of such property without liability to the Debtors or third parties and, to the extent applicable, the automatic stay is modified to allow such disposition.
- i. ***Rejection Damages.*** If a Lease or Contract counterparty has a claim for damages as a result of the Debtors' rejection of any applicable Leases or Contracts set forth in the Rejection Notice, such Lease or Contract counterparty must submit a proof of claim on or before the later of (i) the deadline for filing proofs of claim established in these chapter 11 cases, (ii) 4:00 p.m. (Prevailing Central Time) on the first business day that is 30 calendar days after the Rejection Notice is served, and (iii) any applicable date established by further order of this Court. If no proof of claim is timely filed, such claimant shall be forever barred from asserting a claim for damages arising from the rejection and from participating in any distributions on such a claim that may be made in connection with these chapter 11 cases.
- j. ***Return of Personal Property.*** Personal property that is subject to Leases or Contracts that are rejected pursuant to these Rejection Procedures shall be made available to each applicable lessor or counterparty "as is, where is," and the Debtors shall negotiate in good faith with each applicable counterparty to determine a mutually convenient date and time for the applicable counterparty to retrieve its personal property. The Debtors make no representation or warranty regarding the condition or state of title of such property. If such property is non-serviceable, the Debtors are under no obligation to repair such property to make it serviceable. For the avoidance of doubt, if any personal property subject to a Lease or Contract has not been retrieved by the applicable counterparty by the later of the Rejection Date for the relevant Lease or Contract, or other date agreed to between the Debtors and the applicable counterparty as set forth in this

subparagraph, the Debtors shall not be liable for any use or disposal of such remaining property.

- k. ***Removal from Schedule.*** The Debtors reserve the right to remove any Lease or Contract from the schedule to any Rejection Notice at any time prior to the later of the Rejection Date and the date of entry of an order of this Court approving the rejection.

2. The form of Rejection Notice annexed to this Order as **Exhibit 1** is approved.

3. The Debtors are further authorized, but not directed, to abandon any personal property, including inventory, furniture, fixtures, equipment, and/or other material at the Leased Premises as of the Rejection Date (collectively, the “**Remaining Property**”) without any liability to the landlords (with the exception of any lease rejection damages claims). Any Remaining Property after the Rejection Date of a Lease shall be deemed abandoned as of the Rejection Date.

4. With respect to any Remaining Property abandoned at one of the Debtors’ Leased Premises, the applicable landlord or other designee shall be free to dispose of such property without notice or liability to any party and without further notice or order of the Court and, to the extent applicable, the automatic stay is modified to allow such disposition.

5. Entry of this Order and approval of the Rejection Procedures set forth herein shall not prevent the Debtors from seeking to reject any Lease or Contract by separate motion or pursuant to a chapter 11 plan.

6. Nothing in the Motion or this Order or any actions taken pursuant to the authority granted by this Order is intended to be or shall be construed as (i) an admission as to the validity of any claim against the Debtors or any liens satisfied pursuant to this Order, (ii) an agreement or obligation to pay any claims, (iii) a waiver of any claims or causes of action that may exist against any creditor or interest holder, (iv) a waiver of the Debtors’ or any appropriate party

in interest's rights to dispute any claim, (v) a waiver or limitation of the Debtors' or any other party in interest's rights under the Bankruptcy Code or any other applicable nonbankruptcy law, (vi) a waiver of the obligation of any party in interest to file a proof of claim, or (vii) an approval or assumption of any unexpired lease or executory contract under section 365 of the Bankruptcy Code.

7. All rights and defenses of the Debtors are preserved, including all rights and defenses of the Debtors with respect to a claim for damages arising as a result of rejection of a Lease or Contract, including any right to assert an offset, recoupment, counterclaim, or deduction.

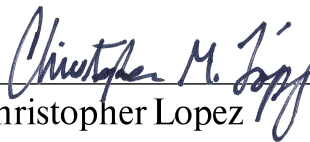
8. Entry of this Order shall not be construed as a finding that any of the Leases or Contracts are "leases" or "executory contracts" under the Bankruptcy Code, and the rights of the Debtors, the counterparties to the Leases and Contracts, and all other parties are fully reserved and preserved on this issue.

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

10. The Debtors are authorized to take all actions necessary or appropriate to carry out the relief granted in this Order.

11. This Court retains exclusive jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Signed: June 20, 2025



Christopher Lopez
United States Bankruptcy Judge

Exhibit 1

Rejection Notice

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	§	
	§	Chapter 11
	§	
EVERSTREAM SOLUTIONS LLC, <i>et al.</i> ,	§	Case No. 25-90144 (CML)
	§	
	§	(Jointly Administered)
Debtors. ¹	§	Re: Docket No. _____

**NOTICE OF REJECTION OF CERTAIN
UNEXPIRED LEASES AND EXECUTORY CONTRACTS
AND ABANDONMENT OF PROPERTY IN CONNECTION THEREWITH**

BANKRUPTCY RULE 6006 NOTICE TO UNEXPIRED LEASE COUNTERPARTIES
PURSUANT TO BANKRUPTCY RULE 6006, PARTIES RECEIVING THIS NOTICE SHOULD LOCATE THEIR RESPECTIVE NAMES AND UNEXPIRED LEASES LISTED ON SCHEDULE 1 OR EXECUTORY CONTRACTS LISTED ON SCHEDULE 2 ANNEXED HERETO.

PLEASE TAKE NOTICE that on May 28, 2025 (the “**Petition Date**”), Everstream Solutions LLC and its debtor affiliates (collectively, the “**Debtors**”),² each commenced with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”) a voluntary case under chapter 11 of title 11 of the United States Code (the “**Bankruptcy Code**”).

PLEASE TAKE FURTHER NOTICE that on [____], 2025, the Bankruptcy Court entered an order approving, among other relief, certain procedures for the rejection of certain of the Debtors’ unexpired leases (the “**Leases**”) and executory contracts (the “**Contracts**”) and the abandonment of any personal property, including inventory, furniture, fixtures, equipment, and/or other material at any premises subject to a Lease under which one of the Debtors is a lessee (the “**Leased Premises**”), in each case as of the applicable Rejection Date (as defined below)

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, are: Midwest Fiber Holdings LP (3804); Midwest Fiber Acquisition Topco LLC (N/A); Midwest Fiber Acquisition Midco1 LLC (6061); Midwest Fiber Acquisition LLC (N/A); Everstream Solutions LLC (2361); Everstream Networks LLC (4542); Everstream GLC Holding Company LLC (4493); American Fiber Comm L.L.C. (2389); HRS Internet, LLC (5042); Lynx Network Group, Inc. (6261); 15955 State Street LLC (2731); Rocket Fiber LLC (7722); Lynx Fiber One, LLC (7151); and Lynx Fiber Two, LLC (3416). The Debtors’ mailing address is 1228 Euclid Ave. Suite 250, Cleveland, OH 44115.

² Capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the *Motion of Debtors for Entry of an Order (I) Approving Procedures to Reject Unexpired Leases and Executory Contracts, (II) Approving Abandonment of Property in Connection Therewith, and (III) Granting Related Relief* (the “**Rejection Procedures Motion**”).

(collectively, the “**Remaining Property**”) (Docket No. ____) (the “**Rejection Procedures Order**”). An electronic copy of the Rejection Procedures Order can be found at [_____].

PLEASE TAKE FURTHER NOTICE that pursuant to the terms of the Rejection Procedures Order, the Debtors hereby give notice (this “**Rejection Notice**”) of their intent to reject the Leases and/or Contracts set forth on the schedules attached hereto, effective as of the date set forth in such schedules (the “**Rejection Date**”); *provided* the Rejection Date with respect to Leases will be the later of (i) the Debtors’ unequivocal surrender of the Leased Premises via the delivery of any keys, key codes, and alarm codes to the Leased Premises, each as applicable, to the applicable lease counterparty and (ii) in the absence of delivering such keys and codes, providing notice to the landlord or counterparty that such party may enter and re-let the Leased Premises.

PLEASE TAKE FURTHER NOTICE that any Remaining Property at the premises subject to the Leases as of the Rejection Date shall be deemed abandoned by the Debtors. With respect to any Remaining Property abandoned at one of the Debtors’ leased properties, the applicable landlord, counterparty, or other designee shall be free to dispose of such property without notice or liability to any Debtor or non-Debtor third party and without further notice or order of the Court and without liability for such disposal.

PLEASE TAKE FURTHER NOTICE that with respect to any personal property that is leased to the Debtors by a third party or otherwise owned by a third party and currently remains at a Leased Premises, such third party shall contact the Debtors and remove or cause to be removed such personal property from the Leased Premises prior to the Rejection Date of the applicable Lease. For the avoidance of doubt, if any such personal property remains on the Leased Premises after the Rejection Date of the applicable Lease, the landlord may dispose of any and all such property as set forth above and in the Rejection Procedures Order.

PLEASE TAKE FURTHER NOTICE that any party wishing to object to the Debtors’ proposed rejection of a Lease or Contract, or the abandonment of personal property remaining on the Leased Premises, must file with the Bankruptcy Court and serve a written objection setting forth the legal and factual bases for such objection (an “**Objection**”)³ *so that it is actually filed with the Bankruptcy Court and served on the following parties no later than seven days after the date the Debtors serve the relevant Rejection Notice* (the “**Rejection Objection Deadline**”): (i) Everstream Solutions LLC, 1228 Euclid Ave. Suite 250, Cleveland, Ohio 44115 (Attn: Bill Hunt); (ii) the proposed attorneys for the Debtors, Weil, Gotshal & Manges LLP, 700 Louisiana Street, Suite 3700, Houston, Texas 77002 and 767 Fifth Avenue, New York, New York 10153 (Attn: Andriana Georgallas, Esq. (andriana.georgallas@weil.com), Gabriel A. Morgan (gabriel.morgan@weil.com), Clifford W. Carlson (clifford.carlson@weil.com), and Alexander P. Cohen, Esq. (alexander.cohen@weil.com)); (iii) the applicable Lease and/or Contract counterparty, and their counsel, if known; (iv) Paul Hastings LLP, 200 Park Avenue, New York, New York 10166 (Attn: Jayme Goldstein, Esq. and Jeremy Evans, Esq.) as counsel to the OpCo Agent on behalf of the OpCo Lenders, the DIP Agent on behalf of the DIP Lenders, and

³ Any Objection to the proposed rejection of any particular Lease or Contract listed in this Rejection Notice must state with specificity the Lease or Contract to which it is directed. An Objection to the proposed rejection of any particular Lease or Contract listed in this Rejection Notice shall not constitute an Objection to the rejection of any other Lease or Contract listed in this Rejection Notice, unless otherwise specified in such Objection.

the HoldCo Lenders; (v) Norton Rose Fulbright US LLP, 1301 Avenue of the Americas, New York, New York 10019-6022 (Attn: Michael Fingerhut, Esq.), as counsel to the HoldCo Agent; (vi) the United States Trustee for the Southern District of Texas (Attn: Jayson Ruff, Esq.); and (vii) counsel for any statutory committee appointed in these chapter 11 cases.

PLEASE TAKE FURTHER NOTICE that, if no Objection is filed and served in compliance with the foregoing, each Lease and Contract listed in the applicable Rejection Notice shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as the Debtors and the counterparty or counterparties to such Lease(s) or Contract(s) agree.

PLEASE TAKE FURTHER NOTICE that, if an Objection is properly filed and served in compliance with the foregoing and not withdrawn or resolved, the Debtors shall file a notice for a hearing to consider the rejection of the Lease(s) or Contract(s) implicated by such Objection(s) and shall provide at least seven days' notice of such hearing to each objecting party and the Objection Service Parties. If any such Objection is overruled or withdrawn, the Lease(s) or Contract(s) that are the subject of such Objection shall be rejected as of the Rejection Date set forth in the Rejection Notice or such other date as agreed by the parties or determined by the Court as set forth in any order overruling such Objection.

PLEASE TAKE FURTHER NOTICE that, pursuant to the terms of the Rejection Procedures Order, if the Debtors have deposited monies with a counterparty to a Lease and/or Contract as a security deposit or other similar arrangement, such Lease and/or Contract counterparty may not setoff, recoup, or otherwise use such monies without the prior authorization of this Court or consent of the Debtors.

PLEASE TAKE FURTHER NOTICE that, absent timely Objection, any personal property of the Debtors that is listed and described in **Schedule 1** for any Lease shall be deemed abandoned by the Debtors as of the Rejection Date.

PLEASE TAKE FURTHER NOTICE that personal property that is subject to Leases or Contracts will be made available to each applicable lessor or counterparty "as is, where is," and the Debtors will negotiate in good faith with each applicable counterparty to determine a mutually convenient date and time for the applicable counterparty to retrieve its personal property. The Debtors make no representation or warranty regarding the condition or state of title of such property. If such property is non-serviceable, the Debtors are under no obligation to repair such property to make it serviceable. For the avoidance of doubt, if any personal property subject to a Lease or Contract has not been retrieved by the applicable counterparty by the later of the Rejection Date for the relevant Lease or Contract, or other date agreed to between the Debtors and the applicable counterparty as set forth in this subparagraph, the Debtors will not be liable for any use or disposal of such remaining property.

PLEASE TAKE FURTHER NOTICE that to the extent you wish to assert a claim(s) with respect to rejection of your Lease(s) or Contract(s), you must do so by the later of (i) the claims bar date established in these chapter 11 cases, if any, (ii) 30 days after entry of the Rejection Order, and (iii) any applicable date established by further order of the Court. **IF YOU FAIL TO TIMELY SUBMIT A PROOF OF CLAIM IN THE APPROPRIATE FORM BY THE DEADLINE SET FORTH HEREIN, YOU WILL BE FOREVER BARRED,**

ESTOPPED, AND ENJOINED FROM (I) ASSERTING SUCH CLAIM AGAINST ANY OF THE DEBTORS AND THEIR CHAPTER 11 ESTATES, (II) VOTING ON ANY CHAPTER 11 PLAN FILED IN THESE CASES ON ACCOUNT OF SUCH CLAIM, AND (III) PARTICIPATING IN ANY DISTRIBUTION IN THE DEBTORS' CHAPTER 11 CASES ON ACCOUNT OF SUCH CLAIM.

Dated: [●], 2025
Houston, Texas

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-and-

WEIL, GOTSHAL & MANGES LLP
Matthew S. Barr (admitted *pro hac vice*)
Andriana Georgallas (admitted *pro hac vice*)
Alexander P. Cohen (24109739)
767 Fifth Avenue
New York, New York 10153
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andriana.georgallas@weil.com
alexander.cohen@weil.com

*Proposed Attorneys for Debtors
and Debtors in Possession*

Schedule 1**List of Rejected Leases¹**

#	COUNTERPARTY	COUNTERPARTY ADDRESS	DEBTOR	DESCRIPTION OF LEASE OR PROPERTY ADDRESS	PERSONAL PROPERTY TO BE ABANDONED	REJECTION DATE
1.						

¹ The inclusion of a Lease on this list does not constitute an admission as to: the expired or unexpired nature of such Lease; the characterization of such Lease as a lease of real or personal property; or the existence or validity of any claims held by the counterparty or counterparties to such Lease.

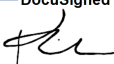
Schedule 2**List of Rejected Contracts¹**

#	COUNTERPARTY	COUNTERPARTY ADDRESS	DEBTOR	DESCRIPTION OF AGREEMENT	REJECTION DATE
1.					

¹ The inclusion of a Contract on this list does not constitute an admission as to the executory or non-executory nature of such Contract, or as to the existence or validity of any claims held by the counterparty or counterparties to such Contract.

VERIFICATION

I, Kim Curtis, Vice President, Critical Infrastructure Procurement, hereby state that the facts above set forth in the Statement of Facts contained in the Petition of T-Mobile USA, Inc. for Interim Emergency Order Prohibiting Abandonment of Customers and Mandating Continuation of Public Utility Service are true and correct to the best of my knowledge, information and belief, and that I expect to be able to prove the same at a hearing held in this matter. This verification is made subject to the penalties of 18 Pa.C.S. § 4904 (relating to unsworn falsification to authorities).

DocuSigned by:

04AF77EF69E34FE...

Kim Curtis
Vice President, Critical Infrastructure Procurement

Dated: 7/21/2025 _____

CERTIFICATE OF SERVICE

I hereby certify that I have this day served a true copy of the foregoing document upon the parties, listed below, in accordance with the requirements of 52 Pa. Code § 1.54 (relating to service by a party).

VIA ELECTRONIC MAIL ONLY

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Counsel to Everstream Solutions LLC

/s/ Whitney E. Snyder

Whitney E. Snyder
Thomas J. Sniscak
Erich W. Struble

Dated this 22nd day of July, 2025