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

FORM 10-K

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

For the fiscal year ended December 31, 2023
OR

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

Commission File No. 001-35210

INNOVATE CORP.
(Exact name of registrant as specified in its charter)

Delaware	**54-1708481**
(State or other jurisdiction of incorporation or organization)	**(I.R.S. Employer Identification No.)**
295 Madison Ave., 12th Floor, New York, NY	**10017**
(Address of principal executive offices)	**(Zip Code)**

(212) 235-2691
(Registrant's telephone number, including area code)

222 Lakeview Ave., Suite 1660, West Palm Beach, FL 33401

Former name or former address, if changed since last report

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

Title of each class	Trading Symbol	Name of each exchange on which registered
Common Stock, par value $0.001 per share	VATE	New York Stock Exchange
Preferred Stock Purchase Rights	N/A	New York Stock Exchange

Securities registered pursuant to Section 12(g) of the Act: None.

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

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

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

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

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

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

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

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

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

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

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

The aggregate market value of INNOVATE's common stock held by non-affiliates of the registrant as of June 30, 2023 was approximately $86.3 million based on the closing sale price of the Common Stock on such date.

As of February 29, 2024, 79,234,991 shares of common stock, par value $0.001, were outstanding.

Documents Incorporated by Reference:

The registrant's definitive Proxy Statement to be to be filed with the Securities and Exchange Commission pursuant to Regulation 14A for the 2024 Annual Meeting of Stockholders is incorporated by reference into Part III of this Form 10-K to the extent stated herein.

INNOVATE CORP.

INDEX TO FORM 10-K

PART I

ITEM 1. BUSINESS

Unless the context otherwise requires, in this Annual Report on Form 10-K, "INNOVATE," means INNOVATE Corp. and the "Company," "we" and "our" mean INNOVATE together with its consolidated subsidiaries.

This Annual Report on Form 10-K contains forward-looking statements. See "Management's Discussion and Analysis of Financial Condition and Results of Operations - Special Note Regarding Forward-Looking Statements."

General

INNOVATE is a diversified holding company that has a portfolio of subsidiaries in a variety of operating segments. We seek to grow these businesses so that they can generate long-term sustainable free cash flow and attractive returns in order to maximize value for all stakeholders. As of December 31, 2023, our three operating platforms or reportable segments, based on management's organization of the enterprise, are Infrastructure, Life Sciences and Spectrum, plus our Other segment, which includes businesses that do not meet the separately reportable segment thresholds.

Our principal operating subsidiaries include the following assets:

(i) DBM Global Inc. ("DBMG") (Infrastructure), a family of companies providing fully integrated structural and steel construction services;
(ii) Pansend Life Sciences, LLC ("Pansend") (Life Sciences), our subsidiary focused on supporting healthcare and biotechnology product development;
(iii) HC2 Broadcasting Holdings Inc. and its subsidiaries ("Broadcasting") (Spectrum), a strategic operator of Over-The-Air ("OTA") broadcasting stations across the United States ("U.S.") including Puerto Rico; and
(iv) Other, which represents all other businesses or investments that do not meet the definition of a segment individually or in the aggregate.

We expect to focus on operating and managing our portfolio of companies and building value in Infrastructure, Life Sciences and Spectrum in the future. We believe these segments are well positioned to take advantage of current trends in today's economy and that there is opportunity to build value organically and inorganically in these three segments. We may consider opportunities outside of these businesses in the longer term to acquire and invest in businesses with attractive assets that we consider to be undervalued or fairly valued.

Overall Business Strategy

We continually evaluate strategic and business alternatives within our operating segments, which may include the following: operating, growing or acquiring additional assets or businesses related to current or historical operations; or winding down or selling our existing operations. In the longer-term, we may evaluate opportunities to acquire assets or businesses unrelated to our current or historical operations. We have generally pursued either controlling positions in durable, cash-flow generating businesses and assets that will enhance our current businesses in Infrastructure, Life Sciences and Spectrum or companies we believe exhibit substantial growth potential, which may be unrelated to the Company's then-current operating segments. In connection with any such acquisition, we may choose to actively assemble or re-assemble a company's management team to ensure the appropriate expertise is in place to execute the operating objectives of such business. We view ourselves as strategic and financial partners and seek to align our management teams' incentives with our goal of delivering sustainable long-term value to our stakeholders.

As part of any acquisition strategy, we may raise capital in the form of debt or equity securities (including preferred stock) or a combination thereof. We have broad discretion in selecting a business strategy for the Company. If we elect to pursue an acquisition, while we intend to focus on Infrastructure, Life Science and Spectrum, we may exercise our broad discretion to identify and select an industry and the possible acquisition or business combination opportunity unrelated to our current operating segments. In connection with evaluating these strategic and business alternatives, we may at any time be engaged in ongoing discussions with respect to possible acquisitions, business combinations and debt or equity securities offerings of widely varying sizes. There can be no assurance that any of these discussions will result in a definitive agreement and, if they do, what the terms or timing of any agreement would be.

Our strategic process includes a continual evaluation of our existing businesses which may include a sale of businesses or operating segments. We consider many factors as we go through our evaluation, which include, but are not limited to, market factors and opportunity, growth prospects and internal needs. In connection with evaluating these strategic and business alternatives, we may at any time be engaged in ongoing discussions with respect to possible dispositions, mergers and public offerings of widely varying sizes. There can be no assurance that any of these discussions will result in a definitive agreement, and if they do, what the terms or timing of any agreement would be.

Competition

From a strategic perspective, we encounter competition for acquisition and business opportunities from other entities having similar business objectives, such as strategic investors and private equity firms, which could lead to higher prices for acquisition targets. Many of these entities are well established and have extensive experience identifying and executing transactions directly or through affiliates. Our financial resources and human resources may be relatively limited when contrasted with many of these competitors which may place us at a competitive disadvantage. Competitive conditions affecting our operating businesses are described in the discussions below.

Employees

As of December 31, 2023, we had 3,946 full-time employees and 78 part-time employees, including the employees of our operating businesses as described in more detail below. We consider our relations with our employees to be satisfactory.

Our Operating Subsidiaries

Infrastructure Segment (DBMG)

DBM Global Inc. (“DBMG”) is a fully integrated construction company offering both construction and professional services primarily through its core subsidiaries, Schuff Steel Company ("SSC"), Banker Steel (“Banker”) and GrayWolf Industrial (“GrayWolf”) to a wide variety of commercial and industrial market segments. These companies provide services to their clients including design-assist, modularization, fabrication and erection of structural steel, heavy steel plate, trusses and girders, heavy equipment installation, as well as facility services for maintenance and shutdowns. The companies enable best delivery of preconstruction, construction and operations services by leveraging the capabilities of the DBM Vircon (“Vircon”) business, which provides construction modeling, rebar and steel detailing, industrial design, and digital engineering services. In addition, through its Aitken business ("Aitken"), DBMG manufactures pressure vessels, strainers, filters, separators and a variety of customized products.

DBMG provides these services on commercial, industrial, and infrastructure construction projects such as high- and low-rise buildings and office complexes, hotels and casinos, convention centers, sports arenas and stadiums, hospital and medical offices, data centers, renewables, chemical, pulp and paper mills, manufacturing facilities, bridges, mines, metal processing and power plants.

Headquartered in Phoenix, Arizona, DBMG has domestic operations in Alabama, Arizona, California, Florida, Georgia, Kansas, Kentucky, New Jersey, New York, Oregon, South Carolina, Texas, Utah, Virginia, and Washington with construction projects primarily located in the aforementioned states. In addition, DBMG has international operations in Australia, Canada, India, New Zealand, the Philippines, Thailand, and the United Kingdom.

DBMG’s results of operations are affected primarily by (i) the level of commercial, industrial and infrastructure construction as well as the need for mechanical and maintenance services in its principal markets; (ii) its ability to win project contracts; (iii) the number and complexity of project changes requested by customers or general contractors; (iv) its success in utilizing its resources at or near full capacity; and (v) its ability to complete contracts on a timely and cost-effective basis. The level of commercial, industrial and infrastructure construction activity is related to several factors, including local, regional and national economic conditions, interest rates, availability of financing, and the supply of existing facilities relative to demand.

Strategy

DBMG’s objective is to achieve and maintain a leading position in the geographic regions and project segments that it serves by providing timely, high-quality services to its customers. DBMG pursues this objective with a strategy comprised of the following components:

- *Pursue Large, Value-Added Design-Build Projects:* DBMG’s unique ability to offer design-build services, a full range of steel construction services and project management capabilities makes it a preferred partner for complex, design-build construction projects in the geographic regions it serves. This capability often enables DBMG to bid against fewer competitors in a less traditional, more negotiated selection process on these kinds of projects, thereby offering the potential for higher margins while providing overall cost savings and project flexibility and efficiencies to its customers;

- *Expand and Diversify Revenue Base:* DBMG is seeking to expand and diversify its revenue base by leveraging its long-term relationships with national and multi-national construction and engineering firms, national and regional accounts, original equipment manufacturers, industrial owners, and other customers. DBMG also intends to continue to grow its operations by targeting projects that carry higher margins and less risk of large margin fluctuations. DBMG believes that continuing to diversify its revenue base by completing projects - such as low-rise office buildings, healthcare facilities and other commercial and industrial structures - could reduce the impact of periodic adverse market or economic conditions, as well as the margin slippage that may accompany larger projects;

- *Emphasize Innovative Services*: DBMG focuses its building information modeling ("BIM"), digital engineering, design-build, engineering, detailing, fabrication, erection, and construction expertise on larger, more complex projects, where it typically experiences less competition and more advantageous negotiated contract opportunities. DBMG has extensive experience in providing services requiring complex BIM modeling, detailing, fabrication and erection techniques and other unusual project needs, such as BIM coordination, specialized transportation, steel treatment or specialty coating applications, piping, machinery rigging and setting, deep foundations, and specialty welding. These service capabilities have enabled DBMG to address such design-sensitive projects as stadiums, uniquely designed hotels and casinos, pulp and paper mills, chemical plants, and other industrial and manufacturing facilities;

- *Diversify Customer and Product Base*: Although DBMG seeks to achieve a leading share of the geographic and product markets in which it traditionally competes, it also seeks to diversify its product offerings and geographic markets through acquisition. By expanding the portfolio of products offered and geographic markets served, DBMG believes that it will be able to offer more value-added services to existing and new potential customers, as well as to reduce the impact of periodic adverse market or economic conditions; and

- *Ensure Project Delivery Success through Predictive Technologies*: DBMG uses resources including data analytics, modeling and detailing, laser scan to BIM, and augmented and virtual reality to provide fully integrated solutions for a project's lifecycle from design through to fabrication and construction, as well as providing mechanical and facility services. DBMG is thus able to deliver optimal value and reliable outcomes that are on schedule and on budget across a wide variety of services and geographic regions.

Services and Customers

DBMG consists of five business units spread across diverse markets: Schuff Steel Company (steel fabrication and erection), Banker Steel (steel fabrication and erection), DBM Vircon (steel detailing, rebar detailing, bridge detailing, BIM modeling services and BIM management services), the Aitken product line (manufacturing of equipment for the oil and gas industry), and GrayWolf (industrial multi-discipline construction, modularization, steel fabrication and erection, specialty facility maintenance, repair, and installation services, as well as management of smaller structural steel projects, leveraging subcontractors).

For the year ended December 31, 2023, revenues were as follows (in millions):

	Revenue	% of Total Revenue
SSC	$ 575.5	41.2 %
Banker Steel	589.2	42.2 %
GrayWolf	189.7	13.6 %
DBM Vircon	35.2	2.5 %
Aitken	7.6	0.5 %
Total	$ 1,397.2	100.0 %

The majority of DBMG's business is in North America, but DBM Vircon provides detailing services on five continents, and SSC provides fabricated steel to Canada and other select countries. In 2023, DBMG's two largest customers represented approximately 41.3% of DBMG's revenues. In 2022, DBMG's two largest customers represented approximately 28.7% of DBMG's revenues.

DBMG's size gives it the production capacity to complete large-scale, demanding projects, with typical utilization per facility ranging from 96% - 100% and a sales pipeline that includes approximately $6.6 billion in potential revenue generation. DBMG believes it has benefited from being one of the largest players in a market that is highly fragmented across many small firms.

DBMG achieves a highly efficient and cost-effective construction process by focusing on collaborating with all project participants and utilizing its extensive digital engineering, design-build and design-assist capabilities with its clients. Additionally, DBMG has in-house fabrication, erection, and multi-discipline industrial construction capabilities combined with access to a network of subcontractors for smaller projects in order to provide high-quality solutions for its customers. DBMG offers a range of services across a broad geography through its 14 fabrication shops in the United States and 32 sales and management facilities located in the United States, Australia, Canada, India, New Zealand, the Philippines, and the UK.

DBMG operates with minimal bonding requirements, with a balance of 34.1% of DBMG's total backlog of $1,057.2 million as of December 31, 2023, and bonding is reduced as projects are billed rather than upon completion. DBMG has limited its raw material cost exposure by securing fixed prices from mills at contract bid as well as by utilizing its purchasing power as one of the largest domestic buyers of wide flange beams in the United States.

SSC believes that the variety of services it offers to its customers enhances its ability to obtain and successfully complete projects. These services fall into six distinct groups: design-assist/design-build, pre-construction design and budgeting, steel management, fabrication, erection, and BIM:

- *Design-Assist/Design-Build:* Using the latest technology and BIM, SSC works to provide clients with cost-effective steel designs. The end result is turnkey-ready, structural steel solutions for its diverse client base;

- *Pre-Construction Design and Budgeting:* Clients who contact SSC in the early stages of planning can receive an SSC-performed analysis of the structure and cost breakdown. Both of these tools allow clients to accurately plan and budget for any upcoming project;

- *Steel Management:* Using SSC's proprietary Steel Integrated Management System ("SIMS"), SSC can track any piece of steel and instantly know its location. Additionally, SSC can help clients manage steel subcontracts, providing clients with savings on raw steel purchases and giving them access to a variety of SSC-approved subcontractors;

- *Fabrication:* Through its six fabrication shops in Arizona, California, Kansas, and Utah, SSC has one of the highest fabrication capacities in the United States, with approximately 1.1 million square feet under roof and a maximum annual fabrication capacity of approximately 287,000 tons;

- *Erection:* Named the top steel erector in the United States for 2007, 2008, 2011, 2013-2020, and 2022, and the second top steel erector for 2021 and 2023 by Engineering News-Record, SSC knows how to add value to its projects through the safe and efficient erection of steel structures; and

- *BIM:* SSC uses BIM on every project to manage its role efficiently. Additionally, SSC's use of SIMS in conjunction with its proprietary BIM platform, Visualizer, allows for real-time reporting on a project's progress and an information-rich model review.

Banker Steel provides full-service fabricated structural steel and erection services primarily for the East Coast and Southeast commercial and industrial construction market in addition to full design-assist services. Banker Steel offers a variety of services to its customers, which it believes enhances its ability to obtain and successfully complete projects. These services fall into four distinct groups: design-assist/design-build, pre-construction design and budgeting, fabrication, and erection:

- *Desi*gn-Assist/*Design-Build*: Using the latest technology, Banker Steel helps developers plan, schedule, model and price projects from start to finish resulting in cost-effective steel designs;

- *Pre-Construction/Design and Budgeting*: Clients who contact Banker Steel in the early stages of planning can receive a detailed analysis of the structure and cost breakdown. Both of these tools allow clients to accurately plan and budget for any upcoming project;

- *Fabrication:* Through its five fabrication shops in Florida, New Jersey, South Carolina and Virginia, Banker Steel has maximum annual fabrication capacity of approximately 189,000 tons with approximately 584,000 square feet of space; typically focusing on complex, non-commoditized jobs with intensive fabrication requirements; and

- *Erection:* Banker Steel offers a full suite of erection services including horizontal and vertical erection services.

GrayWolf provides services including industrial multi-discipline construction, modularization, steel fabrication, steel construction management, maintenance, repair, erection, and installation to a diverse range of end markets in order to provide high-quality outage, turnaround, and new installation services to customers. GrayWolf provides the following services through its two major brands: GrayWolf Integrated Construction (formerly Titan Contracting, Titan Fabricators, and Inco Services), and Milco National Constructors.

- *Multi-discipline construction and modularization services:* GrayWolf offers multi-discipline construction services to manufacturing, power, petrochemical, refining, data center, oil and gas and other industrial markets. Its services including modularization, plant maintenance, specialty welding, equipment rigging and setting, and mechanical and electrical construction to customers in the power, industrial, petrochemical, water treatment, and refining markets at a national level;

- *Specialty construction solutions for processing markets:* Customers in the pulp and paper, metals, mining and minerals, oil and gas and petrochemical markets utilize GrayWolf's specialized solutions including plant maintenance, process piping, equipment setting, and tank and vessel fabrication and erection that are catered to the needs and specifications of the customer's industry;

- *Turnarounds, tank construction, and piping services:* GrayWolf offers services including plant maintenance, specialty welding, piping systems, and tanks and vessels construction to the power, pulp and paper, refining, petrochemical, and water treatment markets in the Midwest, Mid-Atlantic, Southeast, and West Coast;

- *Custom steel fabrication and erection:* GrayWolf offers engineering, design, fabrication, modularization, erection and additional services to the heavy commercial and industrial markets in the Southwest, Midwest, Gulf Coast and Southeast; and

- *Structural steel management:* GrayWolf provides turn-key steel fabrication and erection services with expertise in project management. Leveraging such strengths, GrayWolf uses its relationships with reliable subcontractors and erectors, along with state-of-the-art management systems, to deliver excellence to clients.

DBM Vircon provides steel detailing, rebar detailing, BIM modeling and BIM management services for industrial and infrastructure and commercial construction projects in Australia, New Zealand, Europe and North America.

- *Steel Detailing:* Utilizing industry leading technologies, DBM Vircon provides steel detailing services which include: shop drawings, erection plans, anchor bolt drawings, connection sketches, NC files for cutting and drilling, DXF files for plate work, field bolt lists, specialist reports and advance bill of material and piping;

- *Rebar Detailing:* These services, including rebar detailing and estimating, are delivered by a staff experienced in rebar installation and familiar with the construction practices and constructability issues that arise on project sites. Deliverables include: field placement/shop drawings, field and/or phone support, 2D and 3D modeling, connection sketches, bar listing in ASA format, DGN files, and complete rebar estimating;

- *BIM Modeling:* Through multidisciplinary teams, DBM Vircon creates highly accurate, scaled virtual models of each structural component. These independent models and data are integrated and standardized to produce a single 3D model simulation of the entire structure using DBM Vircon's proprietary application, Visualizer. This integrated model contains complete information for all functional requirements of a project, including procurement and logistics, financial modeling, claims and litigation, fabrication, construction support and asset management;

- *BIM Management:* DBM Vircon is an industry leading provider of BIM management consultancy services ("BIM Management"), with clients ranging from government, industry organizations and general construction contractors. BIM Management of all project participants' input, use and development of the applicable model is integral to ensuring that the model remains the single point of reference. DBM Vircon's BIM Management service includes the governing of process and workflow management, which is a collection of defined model uses, workflows, and modeling methods used to achieve specific, repeatable and reliable information results from the model. The way the model is created and shared, and the sequencing of its application, impacts the effective and efficient use of BIM for desired project outcomes and decision support; and

- *Bridge Steel Detailing:* Utilizing industry leading technologies, DBM Vircon, through its wholly owned subsidiary, Candraft Detailing, provides steel detailing services for bridges which include: shop drawings, erection plans, anchor bolt drawings, connection sketches, DSTV files for cutting and drilling, DXF files for plate work, field bolt lists, specialist reports and advance bill of material and piping.

Aitken is a manufacturer of equipment used in the oil, gas, petrochemical and pipeline industries. Aitken supplies the following products both nationwide and internationally:

- *Strainers*: Temporary cone and basket strainers, tee-type strainers, vertical and horizontal permanent line strainers and fabricated duplex strainers;

- *Measurement Equipment:* Orifice meter tubes, orifice plates, orifice flanges, seal pots, flow nozzles, Venturi tubes, low loss tubes and straightening vanes; and

- *Major Products:* Spectacle blinds, paddle blinds, drip rings, bleed rings, and test inserts, ASME vessels, launchers and pipe spools.

Suppliers

DBMG currently purchases its steel from a variety of domestic and foreign steel producers but is not dependent on any one producer. During the year ended December 31, 2023, DBMG, through SSC and Banker Steel, purchased approximately 34.4% of the total value of steel and steel components purchased from two domestic steel vendors. Refer to Item 1A - Risk Factors - "Risks Related to the Infrastructure segment" elsewhere in this document for discussion on DBMG's reliance on suppliers of steel and steel components.

Sales and Distributions

DBMG obtains contracts through competitive bidding or negotiation, which generally are fixed-price, cost-plus, unit cost, or time and material arrangements. Bidding and negotiations require DBMG to estimate the costs of the project up front, with most projects typically lasting from one to twelve months. However, large and more complex projects can often last two years or more.

Marketing

General managers along with sales managers lead DBMG's sales and marketing efforts. Each general manager is primarily responsible for sales, estimating, and marketing efforts in defined geographic areas. In addition, DBMG employs full-time project estimators and chief estimators. DBMG's sales representatives build and maintain relationships with general contractors, architects, engineers, OEMs, industrial owners, and other potential sources of business to identify potential new projects. DBMG generates future project reports to track the weekly progress of new opportunities. DBMG's sales efforts are further supported by most of its executive officers, engineering, and strategic sales and marketing personnel, who have substantial experience in the design, detailing, modeling, fabrication, industrial construction, maintenance, and erection of structural steel and heavy steel plate.

DBMG competes for new project opportunities through its relationships and interaction with its active and prospective customer base which provides valuable current market information and sales opportunities. In addition, DBMG is often contacted by governmental agencies in connection with public construction projects, and by large private-sector project owners, general contractors and engineering firms in connection with new building projects such as manufacturing and industrial plants, data centers, warehouse and distribution centers, and other industrial and commercial facilities.

Upon selection of projects to bid or price, DBMG's estimating departments review and prepare projected costs of shop, field, detail drawing preparation and equipment hours, steel and other raw materials, and other costs. With respect to bid projects, a formal bid is prepared detailing the specific services and materials DBMG plans to provide, along with payment terms and project completion timelines. Upon acceptance, DBMG's bid proposal is finalized in a definitive contract.

Competition

The principal geographic and product markets DBMG serves are highly competitive, and this intense competition is expected to continue. DBMG competes with other contractors for commercial, industrial and specialty projects on a local, regional, or national basis. Continued service within these markets requires substantial resources and capital investment in equipment, technology and skilled personnel, and certain of DBMG's competitors have financial and operating resources greater than DBMG. Competition also places downward pressure on DBMG's contract prices and margins. The principal competitive factors within the industry are price, timeliness of project completion, quality, reputation, and the desire of customers to utilize specific contractors with whom they have favorable relationships and prior experience. While DBMG believes that it maintains a competitive advantage with respect to many of these factors, failure to continue to do so or to meet other competitive challenges could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

Employees

As of December 31, 2023, DBMG employed 3,884 full-time and 73 part-time (1,033 salaried and 2,924 hourly) people across the globe, including the U.S., Canada, Australia, New Zealand, India, the Philippines, the UK and Mexico. The number of persons DBMG employs on an hourly basis fluctuates directly in relation to the amount of business DBMG performs. Certain of the fabrication and erection personnel DBMG employs are represented by various trade unions. DBMG is a party to several separate collective bargaining agreements with these unions in certain of its current operating regions, which expire (if not renewed) at various times in the future. Approximately 14.1% of DBMG's employees are covered under various collective bargaining agreements. As of December 31, 2023, most of DBMG's collective bargaining agreements are subject to automatic annual or other renewal unless either party elects to terminate the agreement on the scheduled expiration date. DBMG considers its relationship with its employees to be satisfactory and, other than sporadic and unauthorized work stoppages of an immaterial nature, none of which have been related to its own labor relations, DBMG has not experienced a work stoppage or other labor disturbance.

DBMG strategically utilizes third-party fabrication and erection subcontractors on many of its projects and also subcontracts detailing services from time to time when its management determines that this would be economically beneficial (and/or when DBMG requires additional capacity for such services). DBMG's inability to engage fabrication, erection and detailing subcontractors on favorable terms could limit its ability to complete projects in a timely manner or compete for new projects, which could have a material adverse effect on its operations.

Legal, Environmental and Insurance

DBMG is subject to claims and legal proceedings that arise in the ordinary course of business. Such matters are inherently uncertain, and there can be no guarantee that the outcome of any such matter will be decided favorably to DBMG or that the resolution of any such matter will not have a material adverse effect upon DBMG or the Company's business, consolidated financial position, results of operations or cash flows. Neither DBMG nor the Company believes that any of such pending claims and legal proceedings will have a material adverse effect on its (or the Company's) business, consolidated financial position, results of operations or cash flows.

DBMG's operations and properties are affected by numerous federal, state and local environmental protection laws and regulations, such as those governing discharges to air and water and the handling and disposal of solid and hazardous wastes. These laws and regulations have become increasingly stringent and compliance with these laws and regulations has become increasingly complex and costly. There can be no assurance that such laws and regulations or their interpretation will not change in a manner that could materially and adversely affect DBMG's operations. Certain environmental laws, such as CERCLA (the Comprehensive Environmental Response, Compensation, and Liability Act) and its state law counterparts, provide for strict and joint and several liability for investigation and remediation of spills and other releases of toxic and hazardous substances. These laws may apply to conditions at properties currently or formerly owned or operated by an entity or its predecessors, as well as to conditions at properties at which wastes or other contamination attributable to an entity or its predecessors come to be located. Although DBMG has not incurred any material environmental related liability in the past and believes that it is in material compliance with environmental laws, there can be no assurance that DBMG, or entities for which it may be responsible, will not incur such liability in connection with the investigation and remediation of facilities it currently operates (or formerly owned or operated) or other locations in a manner that could materially and adversely affect its operations.

DBMG maintains commercial general liability insurance in the amount of $2.0 million per occurrence and $4.0 million in the aggregate. In addition, DBMG maintains umbrella coverage limits of $75.0 million. DBMG also maintains insurance against property damage caused by fire, flood, explosion and similar catastrophic events that may result in physical damage or destruction of its facilities and property. DBMG maintains professional liability insurance in the amount of $10.0 million for professional services related to our work in steel erection and fabrication projects.

All policies are subject to various deductibles and coverage limitations. Although DBMG's management believes that its insurance is adequate for its present needs, there can be no assurance that it will be able to maintain adequate insurance at premium rates that management considers commercially reasonable, nor can there be any assurance that such coverage will be adequate to cover all claims that may arise.

Life Sciences Segment (Pansend Life Sciences, LLC)

Our Life Sciences segment is comprised of Pansend Life Sciences, LLC ("Pansend"). Pansend maintains controlling interests of approximately 80.0% in Genovel Orthopedics, Inc. ("Genovel"), which seeks to develop products to treat early osteoarthritis of the knee and approximately 56.6% in R2 Technologies, Inc. ("R2"), which develops aesthetic and medical technologies for the skin. Pansend also invests in other early stage or developmental stage healthcare companies including an approximate 46.2% interest in MediBeacon Inc. ("MediBeacon"), an approximate 1.9% interest in Triple Ring Technologies, Inc. ("Triple Ring"), and an approximate 20.1% interest in Scaled Cell Solutions, Inc.

R2 Technologies, Inc.

R2 develops and commercializes breakthrough aesthetic medical and non-medical devices in the aesthetic dermatology market. Founded in 2014 by Pansend and Blossom Innovations, LLC, R2 exclusively licenses intellectual property developed at Massachusetts General Hospital and Harvard Medical School.

Skin lightening and brightening is a large and fast-growing segment of aesthetic dermatology. Current lightening products and/or procedures may be ineffective, unpredictable or even harmful, and patients often must compensate for lack of efficacy by using makeup or concealers. R2 has developed breakthrough CryoAesthetic technologies that uniquely deliver treatments that provide patients skin lightening, brightening, skin tone evening and reduction or elimination of hyperpigmentation and inflammation. R2's patented CryoModulation technology uses controlled cooling to suppress melanin, inflammation and discomfort by precisely controlling time and temperature to deliver an effective treatment with little social downtime.

In 2019, R2 closed on its Series B Preferred Stock financing round with its strategic partner, Huadong Medicine Company, Ltd., ("Huadong"). In connection with a $30 million investment to be made by Huadong in installments based on pre-determined milestones, R2 entered into a distribution agreement with Huadong under which R2 granted Huadong exclusive rights to distribute all of R2's products in the Asia-Pacific region, and R2 is entitled to receive a share of Huadong's net sales from such products. R2 received the final installment of the $30 million investment from Huadong on February 3, 2021.

In 2021, Pansend invested $15 million in R2's Series C Preferred Stock at a post-money valuation of $150 million for R2.

R2 currently has four products in various stages of commercialization and development:

1. Glacial Rx – Launched in the first quarter of 2021 in the United States after receiving U.S. Food and Drug Administration ("FDA") clearance for use in dermatologic procedures for the removal of benign lesions of the skin and for use when cooling is intended for the temporary reduction of pain, swelling, inflammation, and hematoma from minor surgical procedures. When used with R2 Dermabrasion Tips, the intended use includes general dermabrasion, scar revision, acne scar revision and tattoo removal. The Glacial Rx system effectively and comfortably addresses these conditions, leaving the skin with a smoother and brighter appearance with little downtime for the patient. The Glacial Rx system is sold into medical practices and is operated by trained healthcare professionals.

2. Glacial Spa – Launched in the first half of 2022 in China after receiving China Non-Medical Classification, the Glacial Spa is a cooling experience used to even skin tone, and brighten and lighten skin. The Glacial Spa system will be sold by Huadong's existing sales force to spas and is intended to be operated by a trained aesthetician.

3. Glacial fx – Launched in the third quarter of 2023 in the United States and Canada, the Glacial fx is intended to brighten, calm, and stimulate healthy, youthful skin through its intelligent precision cooling technology. The Glacial fx system expands R2's North America market into all practice types, including nonmedical and retail chains, and is intended to be operated by a trained aesthetician.

4. Glacial AI – Currently undergoing research and development, the Glacial AI is an autonomous, robotic cooling device focused on whole-body skin lightening and brightening.

Sales and Distribution

In North America, R2 utilizes a direct sales force to sell Glacial Rx and Glacial fx. As of December 31, 2023, R2 had a North American sales force of 18 employees, total full-time employees of 36 and 4 part-time employees.

In international markets, R2 sells both Glacial Rx and Glacial Spa through distributors.

Competition

The medical technology and aesthetic product markets are highly competitive and dynamic and are characterized by rapid and substantial technological development and product innovations. Demand for our products could be limited by the products and technologies offered now or in the future by our competitors.

Due to less stringent regulatory requirements, there are many more aesthetic products and procedures available for use in international markets than are cleared for use in the United States. There are also fewer limitations on the claims our competitors in international markets can make about the effectiveness of their products and the manner in which they can market them. As a result, we face more competition in these markets than in the United States.

We also compete against medical technology and aesthetic companies, including those offering products and technologies unrelated to skin lightening and brightening, for physician resources and mind share. Some of our competitors have a broad range of product offerings, large direct sales forces, and long-term customer relationships, which could inhibit our market penetration efforts. Our potential customers also may need to recoup the cost of expensive products that they have already purchased from our competitors, and thus they may decide to delay or not to purchase our products.

We believe that our products compete favorably, largely based on the following competitive factors:

- Our products safely downregulate inflammation and pain, accelerate exfoliation and normalize melanin production. This is a breakthrough technology unlike any other currently available in the marketplace;
- Our products are versatile, providing customized treatment capabilities for patients of all ages and skin types making every aesthetic patient a candidate;
- Our products achieve measurable results with little to no patient discomfort and high patient satisfaction;
- Glacial Rx is FDA cleared in the United States as a complementary treatment to improve the patient experience of most other pain or inflammation inducing treatments. This allows practices to offer a highly differentiated experience to existing customers and attract new business, generating additional revenue.

Governmental Approvals

The design, development, manufacture, testing and sale of our Glacial Rx product is subject to regulation by numerous governmental authorities, principally the FDA, and corresponding state and foreign regulatory agencies.

The Glacial Rx product (also known as the Dermal Cooling System) has received 510(k) clearance from the FDA as a cryosurgical instrument intended for the use in dermatologic procedures for the removal of benign lesions of the skin; temporary reduction of pain, swelling, inflammation and hematoma from minor surgical procedures; use of optional dermabrasion tip accessories for general dermabrasion, scar revision, acne scar revision, and tattoo removal; pain minimization, inflammation, and thermal injury during laser and dermatological treatments and for temporary anesthetic relief of injections.

We have received regulatory approval or are otherwise free to market the Glacial Rx product in numerous international markets. Any devices we manufacture or distribute pursuant to clearance or approval by the FDA are subject to pervasive and continuing regulation by the FDA and certain state agencies, including establishment registration and device listing with the FDA. We are required to adhere to applicable regulations detailed in the FDA's current Good Manufacturing Practices ("cGMP") as set forth in the Quality System Regulation, which include among other things, testing, control and documentation requirements. Non-compliance with these standards can result in, among other things, fines, injunctions, civil penalties, recalls or seizures of products, total or partial suspension of production, refusal of the government to grant 510(k) clearance of devices, withdrawal of marketing approvals and criminal prosecutions. We and our contract manufacturer have designed and operate our manufacturing facilities under the FDA's cGMP requirements and are subject to periodic inspection by the FDA for compliance with regulatory requirements.

Because we are a manufacturer of medical devices, we must also comply with medical device reporting requirements by reviewing and reporting to the FDA whenever there is evidence that reasonably suggests that one of our products may have caused or contributed to a death or serious injury. We must also report any incident in which our product has malfunctioned if that malfunction would likely cause or contribute to a death or serious injury if it were to recur. Labeling and promotional activities are subject to scrutiny by the FDA and, in certain circumstances, by the Federal Trade Commission. Medical devices approved or cleared by the FDA may not be promoted for unapproved or uncleared uses, otherwise known as "off-label" promotion. The FDA and other agencies actively enforce the laws and regulations prohibiting the promotion of off-label uses, and a company that is found to have improperly promoted off-label uses may be subject to significant liability, including substantial monetary penalties and criminal prosecution.

The regulatory review process for medical devices varies from country to country, and many countries also impose product standards, packaging requirements, environmental requirements, labeling requirements and import restrictions on devices. Each country has its own tariff regulations, duties, and tax requirements. Failure to comply with applicable foreign regulatory requirements may subject a company to fines, suspension or withdrawal of regulatory approvals, product recalls, seizure of products, operating restrictions, criminal prosecution, or other consequences.

In international markets, we are required to obtain and maintain various quality assurance and quality management certifications. We have obtained the following international certifications: EN ISO 13485:2016 Medical Devices - Quality Management Systems - Requirements for regulatory purposes and Medical Device Single Audit Program (US and Canada). In November 2023, we were audited by our Certification Body, SGS, and there were no findings or observations.

Sources of Raw Materials and Suppliers

We depend upon our contract manufacturer to build our products. We rely on purchase orders rather than long-term contracts with our contract manufacturer, which mitigates some risks, including price increases. However, this subjects us to other risks such as component shortages. We continue to evaluate alternative sources of supply for these components and materials.

Patents and Proprietary Technology

To establish and protect our proprietary technologies and products, we rely on a combination of patent, copyright, trademark, and trade-secret laws, as well as confidentiality provisions in our contracts. We have implemented a patent strategy designed to protect our technology and facilitate commercialization of our current and future products. As of December 31, 2023, our patent portfolio comprised 115 issued patents and 42 pending patent applications, each of which we either own directly or for which we are the exclusive licensee. Our intellectual property portfolio for our CryoModulation technology was built through the combination of licensing patents from third parties and the issuance of new patents to us as the result of our ongoing development activities. Many of our issued and pending patents were exclusively licensed from General Hospital Corporation, which owns and operates the Massachusetts General Hospital ("MGH") and generally relate to our core technology. In general, patents have a term of 20 years from the application filing date or earliest claimed priority date. We expect our issued and exclusively licensed patents to expire in 2035 or later.

We also rely on trade secrets, technical know-how, contractual arrangements, and continuing innovation to protect our intellectual property and maintain our competitive position. We have a policy to enter into confidentiality agreements with third parties, employees, and consultants. We also have a policy that our employees and consultants sign agreements requiring that they assign to us their interests in intellectual property such as patents and copyrights arising from their work for us.

Patent License Agreement

On December 8, 2014, the Company entered into a Patent License Agreement with MGH, whereby R2 may use certain licensor assets and patent rights for the commercial development, manufacturing, distribution and use in products and processes. The agreement, as amended, calls for royalties to be paid at 8% of net sales of all products and processes with minimum guarantees. Annual minimum royalty payment commitments are as follows: $75,000 on the first anniversary, $100,000 on the second anniversary, $150,000 on the third anniversary, and $200,000 on the fourth anniversary of the effective date that occurs following the first commercial sale, and each subsequent anniversary of the effective date thereafter through the term. In addition, the agreement provides for R2 to pay a milestone payment of $1,000,000 within sixty days of the earliest: (i) first commercial sale, (ii) first regulatory approval allowing sale or marketing of a product or process in any country, (iii) the first marketing of a product or process in any country.

As of December 31, 2023, we have completed all milestones associated with the license agreement with MGH and have made all required license fee and milestone payments to MGH described above. We continue to pay the royalty on net sales as required by the agreement and currently have no additional obligations to MGH resulting from any sublicensing agreement.

MediBeacon, Inc.

MediBeacon is developing a system that is intended to enable real-time monitoring and evaluation of kidney function. The Transdermal GFR Measurement System (“TGFR”) or kidney function measurement system is designed to allow non-invasive detection of the change in patient levels of a fluorescent kidney function tracer agent over time via a sensor placed on the patient’s skin. Better tools for the management of kidney patients are needed. This is one of the reasons FDA granted the TGFR a Breakthrough Device Designation in recognition that the technology has the potential to provide for more effective patient management. Chronic kidney disease is estimated to affect approximately 850 million people worldwide.

MediBeacon's TGFR uses a highly engineered transdermal skin sensor combined with Lumitrace (relmapirazin), a novel fluorescent tracer agent that glows in the presence of light. The TGFR is designed to be the first system to enable real-time, monitoring of kidney function at the point-of-care. On October 22, 2018, the FDA granted Breakthrough Device designation to the TGFR for the measurement of Glomerular Filtration Rate ("GFR") in patients with impaired or normal kidney function. Under the Breakthrough Device program, the FDA works with companies to expedite regulatory review in order to give patients more timely access to innovative diagnostic and therapeutic technologies. MediBeacon completed its U.S. phase 3 TGFR Pivotal Study in the first quarter of 2023 and during the second quarter of 2023, submitted the results of the study to the FDA.

The FDA has informed MediBeacon that, as part of the evaluation process for a breakthrough device, the TGFR will be presented at a "first of kind" FDA advisory committee meeting. Advisory committees provide independent expert advice to the FDA on broad scientific topics or on certain products to help the agency make sound decisions based on the available science. Advisory committees make non-binding recommendations to the FDA, which generally follows the recommendations but is not legally bound to do so.

In 2019, MediBeacon closed its Series B financing round with its strategic partner, Huadong. In connection with a $30 million staggered investment by Huadong, MediBeacon entered into an exclusive distribution agreement with Huadong, under which MediBeacon granted Huadong the exclusive rights to distribute all of MediBeacon's products in Greater China, and MediBeacon will receive royalty payments on net sales of the TGFR system. Under this agreement, Huadong is also responsible for funding clinical trials, commercial and regulatory activities relating to the TGFR system in 25 countries in the Asia-Pacific region, including Greater China. MediBeacon received the first $15 million tranche during 2019 at a pre-money valuation of approximately $300 million. In 2020, Huadong amended their agreements to provide for Huadong to prepay, at a minimum, $20 million of future China royalties to fund registration of the TGFR system as a Class 1 device in China, allowing it to immediately enter the Chinese hospital system. As of December 31, 2023, approximately $26.3 million had been received.

On November 2022, MediBeacon and Huadong amended their existing agreements for Huadong to provide approximately $10 million in additional funding to MediBeacon including, at minimum, an additional $2.5 million in prepayment of future China royalties to accelerate other pre-commercialization activities. On February 23, 2023, pursuant to its amended commercial partnership with Huadong, MediBeacon issued $7.5 million of its preferred stock to Huadong at a pre-money valuation of approximately $400 million in exchange for additional shares of preferred stock, accelerating 50% of the remaining $15 million milestone investment due upon FDA approval of MediBeacon's TGFR.

MediBeacon fluorescent tracer agent-based monitoring systems hold promise in a range of potential medical applications, including:

1. Gastrointestinal permeability, which has the potential to transform management of autoimmune and inflammatory diseases, including Crohn's disease. Grants from the Bill and Melinda Gates Foundation, in collaboration with scientists at Washington University School of Medicine in St. Louis and the Mayo Clinic, have supported MediBeacon's research in this area. The first in-human clinical studies were completed to study the feasibility of using fluorescent tracer agent-based systems to quantify the permeability of the gastrointestinal tract in patients with active Crohn's disease.

2. Ocular angiography, which has the potential to diagnose and monitor vasculature leakage in the eye, a key factor in diagnosing and monitoring various diseases, including macular degeneration, diabetic retinopathy and retinal vasculitis while avoiding current potential clinical side effects such as allergic reactions, nausea and vomiting. MediBeacon was the recipient of a Small Business Innovation Research grant supported by the National Eye Institute of the National Institutes of Health (NIH). MediBeacon is pursuing research into the use of Lumitrace to visualize vasculature in the eye.

3. Surgical visualization feasibility, which has the potential to be used in open, laparoscopic and robotic surgeries to identify critical structures (e.g. ureters), tumor margins and blood flow in tissues in real-time. Research in this area is underway.

Genovel Orthopedics, Inc.

Genovel is a medical device company developing novel partial and total knee replacements for the treatment of osteoarthritis of the knee based on patented technology developed at New York University School of Medicine.

Triple Ring Technologies, Inc.

Triple Ring is a research and development engineering company specializing in medical devices, homeland security, imaging sensors, optics, fluidics, robotics and mobile healthcare.

Scaled Cell Solutions, Inc.

Scaled Cell Solutions, Inc. is an immunotherapy company developing a novel autologous cell therapy system to potentially improve current CAR-T treatments.

Spectrum Segment (HC2 Broadcasting Holdings Inc.)

HC2 Broadcasting Holdings Inc., ("HC2B" and together with its subsidiaries, "Broadcasting"), a majority-owned subsidiary of INNOVATE, is an owner and operator of broadcast TV stations throughout the U.S. and an avenue for high-end content providers to deliver their product OTA to more homes and, ultimately, mobile devices. Broadcasting's stations are interconnected to an internet protocol network backbone, which allows Broadcasting to monitor and operate the stations remotely, resulting in significant cost efficiencies.

As of December 31, 2023, Broadcasting operated 251 stations, including three Full-Power stations, 53 Class A stations and 195 Low Power Television ("LPTV") stations. Broadcasting stations are collectively able to broadcast approximately 1,700 sub-channels and reach 106 markets in the U.S., plus Puerto Rico, including 34 of the top 35 markets. Broadcasting has approximately 100 stations concentrated in the top 35 markets.

Operating Broadcast Stations

Below are Broadcasting's operating stations as of December 31, 2023, listed by call sign and market rank:

Market	Market Rank [(a)]	Station	Service
New York, NY	1	WKOB-LD	LPTV Station
		W02CY-D	LPTV Station
Los Angeles, CA	2	KHIZ-LD	LPTV Station
		KSKJ-CD	Class A Station
Chicago, IL	3	WPVN-CD	Class A Station
		W31EZ-D	LPTV Station
Philadelphia, PA	4	WDUM-LD	LPTV Station
		WZPA-LD	LPTV Station
		W25FG-D	LPTV Station
		WPSJ-CD	Class A Station
Dallas - Ft. Worth, TX	5	KHPK-LD	LPTV Station
		KPFW-LD	LPTV Station
		KNAV-LD	LPTV Station
		KODF-LD	LPTV Station
		K07AAD-D	LPTV Station
		KJJM-LD	LPTV Station
Houston, TX	6	KUVM-LD	LPTV Station
		KUGB-CD	Class A Station
		KUVM-CD	Class A Station
		KBMN-LD	LPTV Station
		KEHO-LD	LPTV Station
Atlanta, GA	7	WYGA-CD	Class A Station
		WUVM-LD	LPTV Station
		WDWW-LD	LPTV Station
		WUEO-LD	LPTV Station
Boston, MA	8	WLEK-LD	LPTV Station
San Francisco - Oakland - San Jose, CA	10	KQRO-LD	LPTV Station
		KEMO-TV	Full Power Station
Phoenix - Prescott, AZ	11	K12XP-D	LPTV Station
		KTVP-LD	LPTV Station
		KPDF-CD	Class A Station
Tampa - St Petersburg - Sarasota, FL	12	W31EG-D	LPTV Station
		W16DQ-D	LPTV Station
		WXAX-CD	Class A Station
		WTAM-LD	LPTV Station
Seattle, WA	13	KUSE-LD	LPTV Station
Detroit, MI	14	WDWO-CD	Class A Station
		WUDL-LD	LPTV Station
Minneapolis - St. Paul, MN	15	KWJM-LD	LPTV Station
		KJNK-LD	LPTV Station
		K33LN-D	Class A Station

		K28PQ-D	LPTV Station
		KMBD-LD	LPTV Station
		KMQV-LD	LPTV Station
Orlando - Daytona Beach - Melbourne, FL	16	WATV-LD	LPTV Station
		WFEF-LD	LPTV Station
Denver, CO	17	KRDH-LD	LPTV Station
Miami - Ft. Lauderdale, FL	18	W16CC-D	LPTV Station
Cleveland - Akron - Canton, OH	19	WQDI-LD	LPTV Station
		WUEK-LD	LPTV Station
		WEKA-LD	LPTV Station
		KONV-LD	LPTV Station
Sacramento - Stockton - Modesto, CA	20	KBIS-LD	LPTV Station
		K04QR-D	LPTV Station
		KFTY-LD	LPTV Station
		KBTV-CD	Class A Station
		KFKK-LD	LPTV Station
		KAHC-LD	LPTV Station
		KFMS-LD	LPTV Station
		K12XJ-D	LPTV Station
Charlotte, NC	21	WVEB-LD	LPTV Station
		W15EB-D	Class A Station
		WHEH-LD	LPTV Station
Raleigh - Durham - Fayetteville, NC	22	WNCB-LD	LPTV Station
		WIRP-LD	LPTV Station
Portland, OR	23	KOXI-CD	Class A Station
St. Louis, MO	24	KPTN-LD	LPTV Station
		K25NG-D	Class A Station
		KBGU-LD	LPTV Station
		W09DL-D	LPTV Station
		WODK-LD	LPTV Station
		WLEH-LD	LPTV Station
Indianapolis, IN	25	WUDZ-LD	LPTV Station
		WSDI-LD	LPTV Station
		WQDE-LD	LPTV Station
Nashville, TN	26	WCTZ-LD	LPTV Station
		WKUW-LD	LPTV Station
Salt Lake City, UT	27	KBTU-LD	LPTV Station
Pittsburgh, PA	28	WJMB-CD	Class A Station
		WWLM-CD	Class A Station
		WMVH-CD	Class A Station
		WKHU-CD	Class A Station
		WWKH-CD	Class A Station
Baltimore, MD	29	WQAW-LD	LPTV Station
San Diego, CA	30	KSKT-CD	Class A Station
San Antonio, TX	31	K17MJ-D	LPTV Station
		KOBS-LD	LPTV Station
		K25OB-D	Class A Station
		KSAA-LD	LPTV Station
		KVDF-CD	Class A Station
		KISA-LD	LPTV Station
		KSSJ-LD	LPTV Station
Hartford - New Haven, CT	32	WTXX-LD	LPTV Station
		WRNT-LD	LPTV Station
Columbus, OH	33	WDEM-CD	Class A Station
Kansas City, MO	34	KAJF-LD	LPTV Station
		KCMN-LD	LPTV Station
		KQML-LD	LPTV Station

Austin, TX	35	KGBS-CD	Class A Station
		KVAT-LD	LPTV Station
Milwaukee, WI	38	WTSJ-LD	LPTV Station
West Palm Beach - Ft. Pierce, FL	39	WDOX-LD	LPTV Station
		WWCI-CD	Class A Station
		WXOD-LD	LPTV Station
Las Vegas, NV	40	KNBX-CD	Class A Station
		KHDF-CD	Class A Station
		KEGS-LD	LPTV Station
		KVPX-LD	LPTV Station
		K36NE-D	Class A Station
Jacksonville, FL	41	WODH-LD	LPTV Station
		WKBJ-LD	LPTV Station
		WJXE-LD	LPTV Station
		WRCZ-LD	LPTV Station
Birmingham - Anniston - Tuscaloosa, AL	46	WUOA-LD	LPTV Station
		WUDX-LD	LPTV Station
Oklahoma City, OK	47	KTOU-LD	LPTV Station
		KBZC-LD	LPTV Station
		KOHC-CD	Class A Station
Albuquerque - Santa Fe, NM	49	KQDF-LD	LPTV Station
		KWPL-LD	LPTV Station
Memphis, TN	50	W15EA-D	Class A Station
		WPED-LD	LPTV Station
		KPMF-LD	LPTV Station
		WQEK-LD	LPTV Station
		WQEO-LD	LPTV Station
New Orleans, LA	51	WTNO-CD	Class A Station
		WQDT-LD	LPTV Station
Fresno - Visalia, CA	52	K17JI-D	Class A Station
		KZMM-CD	Class A Station
Buffalo, NY	54	WWHC-LD	LPTV Station
		WVTT-CD	Class A Station
Ft. Myers - Naples, FL	55	WGPS-LD	LPTV Station
Richmond - Petersburg, VA	56	WUDW-LD	LPTV Station
		WWBK-LD	LPTV Station
		WFWG-LD	LPTV Station
Mobile, AL - Pensacola, FL	57	WWBH-LD	LPTV Station
		WEDS-LD	LPTV Station
Little Rock - Pine Bluff, AR	59	KWMO-LD	LPTV Station
		K23OW-D	LPTV Station
		KENH-LD	LPTV Station
Tulsa, OK	62	KZLL-LD	LPTV Station
		KUOC-LD	LPTV Station
Des Moines - Ames, IA	67	KRPG-LD	LPTV Station
		KAJR-LD	LPTV Station
		KCYM-LD	LPTV Station
Omaha, NE	71	KQMK-LD	LPTV Station
		KAJS-LD	LPTV Station
Wichita - Hutchinson, KS	72	KFVT-LD	LPTV Station
Springfield, MO	73	KFKY-LD	LPTV Station
		KCNH-LD	LPTV Station
Flint - Saginaw - Bay City, MI	74	WFFC-LD	LPTV Station
		W35DQ-D	LPTV Station
Rochester, NY	76	WGCE-CD	Class A Station
Madison, WI	77	W23BW-D	Class A Station
		WZCK-LD	LPTV Station

Charleston - Huntington, WV	79	WOCW-LD	LPTV Station
Huntsville - Decatur - Florence, AL	81	W34EY-D	Class A Station
Harlingen - Weslaco - Brownsville - McAllen, TX	82	KNWS-LD	LPTV Station
		KRZG-CD	Class A Station
		KAZH-LD	LPTV Station
Waco - Temple - Bryan, TX	83	KZCZ-LD	LPTV Station
		KAXW-LD	LPTV Station
Chattanooga, TN	84	WYHB-CD	Class A Station
Savannah, GA	85	WDID-LD	LPTV Station
		WUET-LD	LPTV Station
Charleston, SC	88	WBSE-LD	LPTV Station
Paducah, KY - Cape Girardeau, MO - Harrisburg, IL	90	W29CI-D	Class A Station
Champaign - Springfield - Decatur, IL	91	WCQA-LD	LPTV Station
		WEAE-LD	LPTV Station
		W23EW-D	LPTV Station
Shreveport, LA	92	K36MU-D	LPTV Station
Cedar Rapids - Waterloo - Iowa City, IA	94	KFKZ-LD	LPTV Station
		K17MH-D	LPTV Station
Baton Rouge, LA	95	K27NB-D	LPTV Station
		K29LR-D	LPTV Station
Ft. Smith - Fayetteville - Springdale - Rogers, AR	96	KAJL-LD	LPTV Station
		KFLU-LD	LPTV Station
Boise, ID	97	K17ED-D	Class A Station
		KFLL-LD	LPTV Station
		KBKI-LD	LPTV Station
		K31FD-D	Class A Station
Myrtle Beach - Florence, SC	99	W33DN-D	LPTV Station
South Bend - Elkhart, IN	100	KPDS-LD	LPTV Station
Greenville - New Bern - Washington, NC	102	W35DW-D	LPTV Station
Reno, NV	103	K07AAI-D	LPTV Station
Tallahassee, FL - Thomasville, GA	105	W21EL-D	LPTV Station
Lincoln - Hastings - Kearney, NE	106	KIUA-LD	LPTV Station
Evansville, IN	107	WDLH-LD	LPTV Station
		WELW-LD	LPTV Station
		WEIN-LD	LPTV Station
Ft. Wayne, IN	108	WCUH-LD	LPTV Station
		W30EH-D	LPTV Station
		W25FH-D	LPTV Station
		WFWC-CD	Class A Station
		WODP-LD	LPTV Station
Tyler - Longview- Nacogdoches, TX	109	KDKJ-LD	LPTV Station
		KCEB	Full Power Station
		KBJE-LD	LPTV Station
		KKPD-LD	LPTV Station
		KPKN-LD	LPTV Station
Augusta, GA - Aiken, SC	110	WIEF-LD	LPTV Station
Fargo - Valley City, ND	114	K15MR-D	LPTV Station
Yakima - Pasco - Richland - Kennewick, WA	116	K33EJ-D	Class A Station
		K28QK-D	LPTV Station
Traverse City - Cadillac, MI	118	W36FH-D	LPTV Station
Eugene, OR	119	KORY-CD	Class A Station
		K06QR-D	LPTV Station
Macon, GA	120	W28EU-D	LPTV Station
		WJDO-LD	LPTV Station
Montgomery - Selma, AL	121	WDSF-LD	LPTV Station
		WQAP-LD	LPTV Station
Santa Barbara - San Luis Obispo, CA	122	KLDF-CD	Class A Station

		KQMM-CD	Class A Station
		KDFS-CD	Class A Station
		KVMM-CD	Class A Station
		KSBO-CD	Class A Station
		KZDF-LD	LPTV Station
Peoria - Bloomington, IL	123	W27EQ-D	LPTV Station
Bakersfield, CA	124	KXBF-LD	LPTV Station
		KTLD-CD	Class A Station
Lafayette, LA	125	K21OM-D	LPTV Station
Columbus, GA - Opelika - Auburn, AL	126	W29FD-D	LPTV Station
		W31EU-D	LPTV Station
Wilmington, NC	128	WQDH-LD	LPTV Station
La Crosse - Eau Claire, WI	129	W23FC-D	LPTV Station
Corpus Christi, TX	130	K21OC-D	LPTV Station
		KCCX-LD	LPTV Station
		K32OC-D	LPTV Station
		KYDF-LD	LPTV Station
Amarillo, TX	131	KAUO-LD	LPTV Station
		KLKW-LD	LPTV Station
Columbia - Jefferson City, MO	136	K35OY-D	LPTV Station
Topeka, KS	140	K35KX-D	LPTV Station
Lubbock, TX	141	K32OV-D	LPTV Station
		KNKC-LD	LPTV Station
Palm Springs, CA	143	K21DO-D	Class A Station
Joplin, MO - Pittsburg, KS	151	KRLJ-LD	LPTV Station
		KPJO-LD	LPTV Station
Bangor, ME	156	W32FS-D	LPTV Station
		W20ER-D	LPTV Station
Biloxi-Gulfport, MS	157	W33EG-D	LPTV Station
Jackson, TN	175	WYJJ-LD	LPTV Station
Quincy, IL - Hannibal, MO - Keokuk, IA	176	WVDM-LD	LPTV Station
		K14SU-D	LPTV Station
Bowling Green, KY	180	WKUT-LD	LPTV Station
		WCZU-LD	LPTV Station
Puerto Rico	NA	WWKQ-LD	LPTV Station
	NA	WOST	Full Power Station
	NA	W20EJ-D	LPTV Station
	NA	W27DZ-D	LPTV Station
	NA	WQQZ-CD	Class A Station

[(a)] Rankings are based on the relative size of a station's Designated Market Area ("DMA") among the 210 generally recognized DMAs in the United States.

Broadcast Operations

Broadcasting carries approximately 63 networks on its stations, distributing content across the U.S. Broadcasting provides free OTA programming to television viewing audiences in the communities it serves. The programming Broadcasting distributes includes networks targeting shopping, weather, sports and entertainment programming, as well as religious networks and networks targeting select ethnic groups.

Revenues

Broadcasting generates broadcast station revenue and, until the end of 2022, network advertising revenue from its operations. Broadcast station revenue is generated primarily from the sale of television airtime in return for a fixed fee or a portion of the related ad sales. In a typical broadcast station revenue agreement, the owner of a station makes available, for a fee, airtime on a station subchannel to a third party. The third party broadcasts during that airtime and collects revenue from advertising aired during such content. Broadcast station revenue is recognized over the life of the contract. The fees charged can be fixed or variable and the contracts that the Company enters into are generally short-term in nature. Variable fees are usage/sales-based and are recognized as revenue when the subsequent usage occurs.

Network advertising revenue is generated primarily from the sale of television airtime for advertisements or paid programming. Network advertising revenue is recognized when advertising spots are aired, and as impression guarantees, if any, are achieved. Network distribution revenue consists of fees charged and payments received from cable, satellite and other multiple video program distribution ("MVPD") systems for their retransmission of our network content. Network distribution fees received from MVPDs are recognized as revenue in the period that services are provided.

With the shut-down of the Azteca America network on December 31, 2022, Broadcast revenues in 2023 are now principally driven by channel leases and revenue share agreements with some 63 other networks carried on Broadcasting's stations.

Strategy

Broadcasting's strategy includes the following initiatives:

- Broadcasting is principally designed to be a nationwide OTA distribution platform, targeting the growing number of OTA households in the U.S.;
- Broadcasting's vision is to capitalize on the opportunities to bring valuable content to more viewers over-the-air and to position itself for the changing media landscape and to take advantage of the technology advances rapidly underway in the industry;
- As of December 31, 2023, 245 operating stations are connected to Broadcasting's cloud-based IP backbone and can be operated and monitored remotely, allowing for substantial cost savings and operating efficiencies. In 2018, FCC deregulation in TV broadcasting eliminated the need for full time employees and studio facilities in markets where Broadcasting operates Full-Power and Class A stations, thus allowing Broadcasting to operate these stations remotely at greater cost efficiency;
- Broadcasting's major focus is to attract the highest quality content providers looking for nationwide distribution. With its national footprint and cloud-based infrastructure, Broadcasting also expects to realize premium pricing for content distribution; and,
- Broadcasting's growing revenue source is from providing national carriage to content providers. Carriage contracts pricing is in part determined by the signal contour of the broadcast station and the number of OTA TV households in a given market, as well as market supply and demand.

Competition

Our television stations compete in the U.S. domestic media market for multicast network tenants, viewer audiences and advertisers. In the last several years, there has been increasing competition from not just cable channels but also streaming services, digital platforms, social media, and internet-delivered video channels. These media platforms have taken market share from OTA broadcast stations like ours. Full Power stations delivering OTA multicast networks also represent direct competition in all our markets. Because our stations are mostly LPTVs and Class A stations, our signal coverage of a market is often less than that of Full Power stations, resulting in a competitive advantage for Full Power stations. As a result of improvements in digital compression technology over the last several years, many Full Power stations have increased the number of subchannels that they can lease to OTA multicast networks, resulting in increased competition in many of our markets over the last several years.

Because nearly all our stations are LPTV and Class A, they do not have primary channel "must carry" rights and, therefore, have no signal coverage and carriage on MVPD systems. Our lack of MVPD distribution materially affects our television stations' competitive position in attracting programmers and viewers. Specifically, MVPD systems can increase a broadcasting station's competition for viewers in a market by providing both cable networks and distant television station signals not otherwise available to the station's audience. Other sources of competition for audiences, programming and advertisers include streaming services, connected televisions, internet websites, mobile applications and wireless carriers, direct-to-consumer video distribution systems, and home entertainment systems. Recent developments by many companies, including internet streaming service providers and internet website operators, have expanded, and are continuing to expand, the variety and quality of broadcast and non-broadcast video programming available to consumers via the internet. Internet companies have developed business relationships with companies that have traditionally provided syndicated programming, network television and other content. As a result, additional programming has, and is expected to further become, available through non-traditional methods, which can directly impact the number of OTA TV viewers, and, thus, indirectly impact station revenues.

Government Approvals and Regulation

Federal broadcasting industry regulations limit our operating flexibility. The Federal Communications Commission ("FCC") regulates all local television broadcasters, including us. We must obtain FCC approval whenever we (i) apply for a new license; (ii) seek to renew or modify a license; (iii) purchase or sell a broadcast station license; and/or (iv) assign or transfer the control of one of our subsidiaries that holds a license. Our FCC licenses are critical to our operations, and we cannot operate without them. Our FCC licenses must be renewed every eight years. The current television license renewal cycle began in 2020, and many of our licenses have been renewed, but others remain pending. While we cannot be certain that the FCC will renew the remaining licenses or that we will always obtain renewal grants in the future, the FCC has historically renewed the Company's broadcast licenses in substantially all cases. The Company does not believe that the expiration or non-renewal of any of our FCC licenses would have a material adverse effect on the expected future cash flows and profitability.

The FCC can sanction us for programming broadcast on our stations that it finds to be indecent. Over the past several years, the FCC has increased its enforcement efforts regarding broadcast indecency and profanity. Additionally, our Full-Power stations and Class A stations are subject to additional FCC rules regarding the airing of mandatory children's programming and local content. While we have measures in place to remain compliant, shortfalls in required programming for Full-Power stations and Class A stations may result in financial penalties levied by the FCC or, in worst cases, the loss of license.

Federal legislation and FCC rules have changed significantly in recent years and may continue to change. These changes may affect our ability to conduct our business in ways that we believe would be advantageous and may impact our operating results.

New Broadcast TV Technology: ATSC 3.0

In 2017, the FCC approved the Advanced Television Systems Committee's standards, ("ATSC 3.0"), the next generation broadcast standards defining how television signals are broadcast and interpreted. ATSC 3.0 is an enhancement to previous broadcast standards, providing enhanced picture and audio quality, mobility, addressability, increased capacity, and IP connectivity. ATSC 3.0 will offer a platform to merge linear programming and non-TV data services alongside OTA and over-the-top ("OTT"). Among the many emerging opportunities will be hyper-local news, weather, and traffic; dynamic ad insertion; geographic and demographic targeted advertising; customizable content; better measurement and analytics; the ability to share data with devices connected to the Internet; flexibility to add streams as needed; an ultra-high definition picture quality with enhanced immersive audio; and connectivity to automobiles. In addition, ATSC 3.0 will provide new emergency capabilities including advanced alerting functions which can relay evacuation routes and device wake-up features. Many of these features will be available to mobile devices. Currently, Broadcasting is exploring commercial opportunities in datacasting on our platform that may offer incremental revenue opportunities over the next year.

Employees

As of December 31, 2023, Broadcasting employed 14 full-time employees and one part-time employee across the U.S.

Refer to Note 18. Operating Segments and Related Information for additional detail regarding our Segment's operations and financial information.

Environmental Regulation and Laws

Our operations and properties, including those of DBMG, are subject to a wide variety of increasingly complex and stringent foreign, federal, state and local environmental laws and regulations, including those concerning emissions into the air, discharge into waterways, generation, storage, handling, treatment and disposal of waste materials and health and safety of employees. Sanctions for noncompliance may include revocation of permits, corrective action orders, administrative or civil penalties and criminal prosecution. Some environmental laws provide for strict, joint and several liability for remediation of spills and other releases of hazardous substances, as well as damage to natural resources. In addition, companies may be subject to claims alleging personal injury or property damage as a result of alleged exposure to hazardous substances. These laws and regulations may also expose us to liability for the conduct of or conditions caused by others, or for our acts that were in compliance with all applicable laws at the time such acts were performed.

Compliance with federal, state and local provisions regulating the discharge of materials into the environment or relating to the protection of the environment has not had a material impact on our capital expenditures, earnings or competitive position. Based on our experience to date, we do not currently anticipate any material adverse effect on our business or consolidated financial position, results of operations or cash flows as a result of future compliance with existing environmental laws and regulations. However, future events, such as changes in existing laws and regulations or their interpretation, more vigorous enforcement policies of regulatory agencies, or stricter or different interpretations of existing laws and regulations, may require additional expenditures by us, which may be material. Accordingly, there can be no assurance that we will not incur significant environmental compliance costs in the future.

Corporate Information

INNOVATE, a Delaware corporation, was incorporated in 1994. Our Internet address is *www.innovatecorp.com*. We make available free of charge through our Internet website our Annual Reports on Form 10-K, Quarterly Reports on Form 10-Q, Current Reports on Form 8-K and amendments to those reports filed or furnished pursuant to the Securities Exchange Act of 1934, as amended, as soon as reasonably practicable after we electronically file such material with, or furnish it to, the United States Securities and Exchange Commission (the "SEC"). The information on our website is not a part of this Annual Report on Form 10-K. Our reports filed with the SEC may be accessed at the SEC's website at www.sec.gov.

The information required by this item relating to our executive officers, directors and code of conduct is set forth in Item 10 of this Form 10-K. Information relating to our Audit Committee and Audit Committee Financial Expert will be set forth in our 2024 Proxy Statement under the Caption "Board Committees" and is incorporated herein by reference.

ITEM 1A. RISK FACTORS

Summary of Risk Factors

Investing in our common stock involves a high degree of risk. These risks are discussed more fully below and include, but are not limited to, the following, any of which could have a material adverse effect on our financial condition, results of operations and cash flows:

Risks Related to Our Businesses

- The ability of our subsidiaries to make distributions, our principal source of cash
- Our levels of indebtedness, financing arrangements and other obligations
- Restrictive covenants in our debt and preferred stock instruments
- Ability to meet working capital requirements
- Dependence on key personnel and ability to attract and retain skilled personnel
- Any identified material weaknesses in our internal controls
- Impact of inflationary pressures
- Constraints in the labor market and increases in labor costs
- Foreign exchange rate volatility
- Impact of competition on our business
- Impact of any potential future acquisitions and ability to manage future growth and the incurrence of substantial costs in connection with acquisitions
- Cyber-attacks and other privacy or data security incidents
- Managing growth related to increased operational size
- Ability to fully utilize net operating loss and other tax carryforwards
- Risk of restated financial statements
- Presentation of corporate opportunities by certain current and former directors and officers and the impact of related party transactions
- Our status as a non-investment company
- Impact of potential litigation
- Deterioration of global economic conditions and the impact of operating globally
- Impact of climate change
- Compliance costs related to our acquired businesses
- Ability of our development stage companies to produce revenues or income
- Adverse tax impact of our acquisitions or dispositions
- Lack of sole control in joint venture investments
- Ability to protect our intellectual property
- Potential dilution of our current stockholders
- Effect of future sales of common stock by preferred stockholders
- Common stock price fluctuations
- Prevention of potential takeover due to Delaware law and charter documents
- Activist stockholders
- Adoption of artificial intelligence ("AI") and government regulation

Risks Related to the Infrastructure segment

- Unpredictability in timing of DBMG’s construction contracts and payments thereunder
- Impact of construction contract pricing terms, including fixed-price and cost-plus pricing
- Termination or cancellation of construction projects
- Increased concentration of construction projects in backlog
- Ability to realize revenue value reported in backlog
- Ability to meet contractual schedule or performance requirements
- Modification or termination of government contracts
- Reliability of subcontractors and third-party vendors
- Impact of inflationary pressures
- Volatility in the supply and demand for steel and steel components
- Dependability of steel component suppliers
- Intense competition in construction markets
- Ability of customers to receive applicable regulatory and environmental approvals
- Impact of failure to obtain or maintain required licenses
- Impact of bonding and letter of credit capacity
- Variability in liquidity over time
- Exposure to professional liability, product liability, warranty and other claims
- Impact of environmental compliance costs
- Impact of potential litigation
- Union labor disruptions that would interfere with operations
- Ability to maintain safe work environment

Risks related to the Life Sciences segment

- Significant fluctuations in Pansend's operating results
- High levels of competition in the life sciences space
- Reliance on third parties for sales, marketing, manufacturing and/or distribution
- Limited current and historical operating revenue
- Impact of a failure to obtain or maintain necessary FDA (or foreign equivalent) clearances and approvals

- Risks associated with the misuse by customers, physicians and technicians of Pansend's products
- Pansend's limited manufacturing experience
- Competition for skilled technical professional personnel
- Obsolescence of Pansend's products
- Ability of Pansend to effectively protect its intellectual property and the impact of a failure to do so
- Patient satisfaction with R2's procedures
- Impact of third party intellectual property infringement claims

Risks related to the Spectrum segment

- Effectiveness of our operations in a highly competitive market
- Impact of FCC regulations, including with respect to broadcasting licenses, or Congressional legislation

Risk Factors

The following risk factors and the forward-looking statements elsewhere herein should be read carefully in connection with evaluating the business of the Company and its subsidiaries. A wide range of events and circumstances could materially affect our overall performance, the performance of particular businesses and our results of operations, and therefore, an investment in us is subject to risks and uncertainties. In addition to the important factors affecting specific business operations and the financial results of those operations identified elsewhere in this Annual Report on Form 10-K, the following important factors, among others, could adversely affect our operations. While each risk is described separately below, some of these risks are interrelated, and it is possible that certain risks could trigger the applicability of other risks described below. Also, the risks and uncertainties described below are not the only ones that we face. Additional risks and uncertainties not presently known to us, or that are currently deemed immaterial, could also potentially impair our overall performance, the performance of particular businesses and our results of operations. These risk factors may be amended, supplemented or superseded from time to time in filings and reports that we file with the SEC in the future.

Risks Related to Our Businesses

INNOVATE is a holding company and its only material assets are its cash on hand, equity interests in its operating subsidiaries and its other investments. As a result, INNOVATE's principal source of cash and cash flow is distributions from its subsidiaries and its subsidiaries may be limited by law and by contract in making distributions to INNOVATE.

As a holding company, INNOVATE's material assets are its cash and cash equivalents, the equity interests in its subsidiaries and other investments. As of December 31, 2023, the Company had $80.8 million of cash and cash equivalents, excluding restricted cash. On a stand-alone basis, as of December 31, 2023, the Non-Operating Corporate segment had cash and cash equivalents, excluding restricted cash, of $2.5 million.

INNOVATE's principal source of cash and cash flow is distributions from its subsidiaries. Thus, its ability to service its debt, including the $330.0 million in aggregate principal amount of 8.5% Senior Secured Notes due 2026 (the "Secured Notes"), $51.8 million aggregate principal of 7.50% convertible senior notes due 2026 (the "2026 Convertible Notes"), $35.1 million aggregate principal amount of 9.0% unsecured notes issued to the Continental General Insurance Company ("CGIC") due 2026 (the "CGIC Unsecured Note") and $20.0 million secured revolving credit agreement (the "Revolving Credit Agreement"), of which $20.0 million was drawn as of December 31, 2023, and to finance future acquisitions, is dependent on the ability of its subsidiaries to generate sufficient net income and cash flows to make upstream cash distributions to INNOVATE. INNOVATE's subsidiaries are separate legal entities, and although they may be wholly-owned or controlled by INNOVATE, they have no obligation to make any funds available to INNOVATE, whether in the form of loans, dividends, distributions or otherwise. The ability of INNOVATE's subsidiaries to distribute cash to it is, and will remain subject to, among other things, restrictions that are contained in its subsidiaries' financing agreements, availability of sufficient funds and applicable state laws and regulatory restrictions. For instance, DBMG is a borrower under credit facilities that restrict their ability to make distributions or loans to INNOVATE. Specifically, DBMG is party to credit agreements that include certain financial covenants that can limit the amount of cash available to make upstream dividend payments to INNOVATE. For additional information, refer to Item 7. "Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources".

Claims of creditors of our subsidiaries generally will have priority as to the assets of such subsidiaries over our claims and claims of our creditors and stockholders. To the extent the ability of INNOVATE's subsidiaries to distribute dividends or other payments to INNOVATE could be limited in any way, our ability to grow, pursue business opportunities or make acquisitions that could be beneficial to our businesses, or otherwise fund and conduct our business could be materially limited. In addition, if INNOVATE depends on distributions and loans from its subsidiaries to make payments on INNOVATE's debt, and if such subsidiaries were unable to distribute or loan money to INNOVATE, INNOVATE could default on its debt, which would permit the holders of such debt to accelerate the maturity of the debt which may also accelerate the maturity of other debt of ours with cross-default or cross-acceleration provisions.

To service our indebtedness and other obligations, we will require a significant amount of cash.

Our ability to generate cash depends on many factors beyond our control, and any failure to meet our debt service obligations, including under our outstanding indebtedness, and our obligations under our outstanding shares of preferred stock, could harm our business, financial condition and results of operations. Our ability to make payments on and to refinance our indebtedness and outstanding preferred stock and to fund working capital needs and planned capital expenditures will depend on our ability to generate cash in the future. This, to a certain extent, is subject to general economic, financial, competitive, business, legislative, regulatory and other factors that are beyond our control. For a description of our and our subsidiaries' indebtedness, refer to Note 11. Debt Obligations to the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference.

If our business does not generate sufficient cash flow from operations or if future borrowings are not available to us in an amount sufficient to enable us and our subsidiaries to pay our indebtedness or make mandatory redemption payments with respect to our outstanding shares of preferred stock, or to fund our other liquidity needs, we may need to refinance all or a portion of our indebtedness or redeem the preferred stock, on or before the maturity thereof, sell assets, reduce or delay capital investments or seek to raise additional capital, any of which could have a material adverse effect on us.

In addition, we may not be able to effect any of these actions, if necessary, on commercially reasonable terms or at all. Our ability to restructure or refinance our indebtedness or redeem the preferred stock will depend on the condition of the capital markets and our financial condition at such time. Any refinancing of our debt or financings related to the redemption of our preferred stock could be at higher interest rates and may require us to comply with more onerous covenants, which could further restrict our business operations. The terms of existing or future debt instruments or preferred stock may limit or prevent us from taking any of these actions. In addition, any failure to make scheduled payments of interest and principal on our outstanding indebtedness or dividend payments on our outstanding shares of preferred stock would likely result in a reduction of our credit rating, which could harm our ability to incur additional indebtedness or otherwise raise capital on commercially reasonable terms or at all. Our inability to generate sufficient cash flow to satisfy our debt service and other obligations, or to refinance or restructure our obligations on commercially reasonable terms or at all, would have an adverse effect, which could be material, on our business, financial condition and results of operations.

The agreements governing our indebtedness and Certificates of Designation for our outstanding shares of preferred stock contain various covenants that limit our discretion in the operation of our business and/or require us to meet financial maintenance tests and other covenants. The failure to comply with such tests and covenants could have a material adverse effect on us.

The agreements governing our indebtedness and the Certificates of Designation for our outstanding shares of preferred stock contain, and any of our other future financing agreements may contain, covenants imposing operating and financial restrictions on our businesses.

The indentures governing our outstanding senior secured notes and convertible notes contain, and any future indentures may contain various covenants, including those that restrict our ability to, and, in certain cases, the ability of the Company’s subsidiaries, to, among other things, incur additional indebtedness; create liens; engage in sale-leaseback transactions; pay dividends or make distributions in respect of capital stock; make certain restricted payments; sell assets; engage in transactions with affiliates; or consolidate or merge with, or sell substantially all of its assets to, another person. These covenants are subject to a number of important exceptions and qualifications.

The debt facilities at our subsidiaries contain similar covenants applicable to each respective subsidiary. These covenants may limit our ability to effectively operate our businesses. For example, DBMG has an indemnity agreement with its surety bond provider that also contains covenants on retention of capital requirements for DBMG, which may limit the amount of dividends DBMG may pay to its stockholders.

In addition, the indenture governing our 2026 Senior Secured Notes dated February 1, 2021, by and among INNOVATE, the guarantors party thereto and U.S. Bank National Association, a national banking association, as trustee (the "Secured Indenture") requires that we meet certain financial tests, including a collateral coverage ratio and minimum liquidity test. Our ability to satisfy these tests may be affected by factors and events beyond our control, and we may be unable to meet such tests in the future.

Any failure to comply with the restrictions in the agreements governing our indentures, or any agreement governing other indebtedness we could incur, may result in an event of default under those agreements. Such default may allow the creditors to accelerate the related debt, which acceleration may trigger cross-acceleration or cross-default provisions in other debt. If any of these risks were to occur, our business and operations could be materially and adversely affected. Refer to Footnote 11. Debt Obligations to our Consolidated Financial Statements included in the Annual Report on Form 10-K for additional information.

The Certificates of Designation provide the holders of our preferred stock with consent and voting rights with respect to certain of the matters referred to above, in addition to certain corporate governance rights. These restrictions may interfere with our ability to obtain financings or to engage in other business activities, which could have a material adverse effect on our business and operations.

We have significant indebtedness and other financing arrangements and could incur additional indebtedness and other obligations, which could adversely affect our business and financial condition.

We have a significant amount of indebtedness and outstanding shares of preferred stock. As of December 31, 2023, our total outstanding indebtedness was $722.8 million and the accrued value of our outstanding preferred stock has a combined redemption value of $16.1 million with a current fair value as of December 31, 2023 of $16.4 million. We may not generate enough cash flow to satisfy our obligations under such indebtedness and other arrangements. This significant amount of indebtedness poses risks such as risk of inability to repay such indebtedness, as well as:

- increased vulnerability to general adverse economic and industry conditions;
- higher interest expense if interest rates increase on our floating rate borrowings are not effective to mitigate the effects of these increases;
- our Secured Notes are secured by substantially all of INNOVATE's assets and those of certain of INNOVATE's subsidiaries that have guaranteed the Secured Notes, including certain equity interests in our other subsidiaries and other investments, as well as certain intellectual property and trademarks, and those assets cannot be pledged to secure other financings;
- certain assets of our subsidiaries are pledged to secure their indebtedness, and those assets cannot be pledged to secure other financings;
- our having to divert a significant portion of our cash flow from operations to payments on our indebtedness and other arrangements, thereby reducing the availability of cash to fund working capital, capital expenditures, acquisitions, investments and other general corporate purposes;
- limiting our ability to obtain additional financing, on terms we find acceptable, if needed, for working capital, capital expenditures, expansion plans and other investments, which may limit our ability to implement our business strategy;
- limiting our flexibility in planning for, or reacting to, changes in our businesses and the markets in which we operate or to take advantage of market opportunities; and
- placing us at a competitive disadvantage compared to our competitors that have less debt and fewer other outstanding obligations.

In addition, it is possible that we may need to incur additional indebtedness or enter into additional financing arrangements in the future in the ordinary course of business. The terms of the Secured Indenture and our subsidiaries' other financing arrangements allow us to incur additional debt and issue additional shares of preferred stock, subject to certain limitations. If additional indebtedness is incurred or equity is issued, the risks described above could intensify. In addition, our inability to maintain certain leverage ratios could result in acceleration of a portion of our debt obligations and could cause us to be in default if we are unable to repay the accelerated obligations.

We have experienced significant historical, and may experience significant future, operating losses and net losses, which may hinder our ability to meet working capital requirements or service our indebtedness, and we cannot assure you that we will generate sufficient cash flow from operations to meet such requirements or service our indebtedness.

We cannot assure you that we will recognize net income in future periods. If we cannot generate net income or sufficient operating profitability, we may not be able to meet our working capital requirements or service our indebtedness. Our ability to generate sufficient cash for our operations will depend upon, among other things, the future financial and operating performance of our operating businesses, which will be affected by prevailing economic and related industry conditions and financial, business, regulatory and other factors, many of which are beyond our control. We recognized net loss attributable to INNOVATE of $35.2 million in 2023 and net loss attributable to INNOVATE of $35.9 million in 2022, and have incurred net losses in prior periods.

We cannot assure you that our business will generate cash flow from operations in an amount sufficient to fund our liquidity needs. If our cash flows and capital resources are insufficient, we may be forced to reduce or delay capital expenditures, sell assets and/or seek additional capital or financings. Our ability to obtain future financings will depend on the condition of the capital markets and our financial condition at such time. Any financings could be at high interest rates and may require us to comply with covenants in addition to, or more restrictive than, covenants in our current financing documents, which could further restrict our business operations. In the absence of such operating results and resources, we could face substantial liquidity problems and might be required to dispose of material assets or operations to meet our obligations. We may not be able to consummate those dispositions for fair market value or at all. Furthermore, any proceeds that we could realize from any such disposition may not be adequate to meet our obligations. For the years ended December 31, 2023 and 2022, we recognized cash flows provided by continuing operating activities of $26.5 million and cash used in continuing operating activities of $9.5 million, respectively.

Loss of our key management or other personnel, including the recent unexpected passing of our Chief Executive Officer, President and Director, could adversely impact our business.

We believe that the future success of INNOVATE and its operating subsidiaries is largely dependent and will depend to a significant extent upon the performance, skills, experience and efforts of our senior management and certain other key personnel. If, for any reason, one or more senior executives or key personnel were not to remain active in our Company, our results of operations could be adversely affected.

On July 23, 2023, we announced the unexpected passing of Wayne Barr, our President, Chief Executive Officer and Director. Mr. Barr had served as a director of INNOVATE since January 2014 and as CEO since November 2020. Following Mr. Barr's death, on July 25, 2023, Paul K. Voigt was named Interim Chief Executive Officer of the Company. Mr. Voigt has served as Senior Managing Director of Investments at Lancer Capital, LLC ("Lancer Capital") since 2019. From 2014 to 2018, Mr. Voigt served as Senior Managing Director of Investments of the Company and was involved with sourcing deals and capital raising for the Company.

The executive management teams that lead our subsidiaries are also highly experienced and possess extensive skills in their relevant industries. The ability to retain key personnel is important to our success and future growth. Competition for these professionals can be intense, and we may not be able to retain and motivate our existing officers and senior employees, and continue to compensate such individuals competitively. The unexpected loss of the services of one or more of these individuals, whether due to competition, distraction caused by personal matters or otherwise, could have a detrimental effect on the financial condition or results of operations of our businesses, and could hinder the ability of such businesses to effectively compete in the various industries in which we operate.

We and our subsidiaries may not be able to attract and/or retain additional skilled personnel.

We may not be able to attract new personnel, including management and technical and sales personnel, necessary for future growth, or replace lost personnel. In particular, the activities of some of our operating subsidiaries require personnel with highly specialized skills. Competition for the best personnel in our businesses can be intense. Our financial condition and results of operations could be materially adversely affected if we are unable to attract and/or retain qualified personnel.

We may identify material weaknesses in our internal control over financial reporting which could adversely affect our ability to report our financial condition and results of operations in a timely and accurate manner.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. As of December 31, 2023 and 2022, management concluded that our internal control over financial reporting was effective.

In future periods, if the process required by Section 404 of the Sarbanes-Oxley Act of 2002, (the "Sarbanes-Oxley Act") reveals or we otherwise identify one or more material weaknesses or significant deficiencies, the correction of any such material weakness or significant deficiency could require additional remedial measures including additional personnel which could be costly and time-consuming. If a material weakness exists as of a future period year-end (including a material weakness identified prior to year-end for which there is an insufficient period of time to evaluate and confirm the effectiveness of the corrections or related new procedures), our management will be unable to report favorably as of such future period year-end to the effectiveness of our internal control over financial reporting. If we are unable to assert that our internal control over financial reporting is effective in any future period, we could lose investor confidence in the accuracy and completeness of our financial reports, which could have an adverse effect on the trading price of our common stock and potentially subject us to additional and potentially costly litigation and governmental inquiries/investigations.

Prolonged inflation could result in higher costs and decreased margins and earnings.

A majority of our products are manufactured and sold inside of the United States, which increases our exposure to, among other things, domestic inflation and fuel price increases. Recent inflationary pressures have resulted in increased interest rates, fuel, wages, freight and container expenses and other costs which, if they continue for a prolonged period, may adversely affect our results of operations. If our costs remain subject to continuing significant inflationary pressures, we may not be able to fully offset such higher costs through price increases. Our inability or failure to do so could harm our business, financial condition, and results of operation.

Overall tightening of the labor market increases in labor costs or any possible labor unrest may adversely affect our business and results of operations.

Our business requires a substantial number of personnel. Any failure to retain stable and dedicated labor by us may lead to disruption to our business operations. Although we have not experienced any labor shortages to date, we have observed an overall tightening and increasingly competitive labor market since 2021. We have experienced, and expect to continue to experience, increases in labor costs due to increases in salary and wages, social benefits and employee headcount. We compete with other companies in our industry and other labor-intensive industries for labor, and we may not be able to offer competitive remuneration and benefits compared to them. If we are unable to manage and control our labor costs, our business, financial condition and results of operations may be materially and adversely affected.

Fluctuations in the exchange rate of the U.S. dollar and in foreign currencies may adversely impact our results of operations and financial condition.

We conduct various operations outside the United States. As a result, we face exposure to movements in currency exchange rates. These exposures include but are not limited to:

- re-measurement gains and losses from changes in the value of foreign denominated assets and liabilities;
- translation gains and losses on foreign subsidiary financial results that are translated into U.S. dollars, our functional currency, upon consolidation; and
- planning risk related to changes in exchange rates between the time we prepare our annual and quarterly forecasts and when actual

results occur.

Our failure to meet the continued listing requirements of NYSE could result in a delisting of our securities, which in turn could adversely affect our financial condition and the market for our common stock.

On October 27, 2022, the Company was notified by NYSE that the average closing price of the Company's common stock had fallen below $1.00 per share over a period of 30 consecutive trading days, which is the minimum average share price required by Section 802.01C of the NYSE Listed Company Manual ("Section 802.01C"). On January 3, 2023, the Company was notified by the NYSE that it had regained compliance with this listing standard. On February 26, 2024, the Company was notified by the NYSE that the average closing price of the Company's common stock had fallen below $1.00 per share over a period of 30 consecutive trading days, which is the minimum average share price required by Section 802.01C. Pursuant to Section 802.01C, the Company has a period of six months following the receipt of the notice to regain compliance with the minimum share price requirement. The Company may regain compliance at any time during the six-month cure period if on the last trading day of any calendar month during the six-month cure period the Common Stock has a closing share price of at least $1.00 and an average closing share price of at least $1.00 over the 30 trading-day period ending on the last trading day of that month. If the Company is unable to regain compliance with the $1.00 share price rule within this period, the NYSE will initiate procedures to suspend and delist the Common Stock. If the common stock ultimately were to be delisted from the NYSE, it could negatively impact the Company by, among other things, (i) reducing the liquidity and market price of the Company's common stock; (ii) reducing the number of investors willing to hold or acquire the Company's common stock, which could negatively impact the Company's ability to raise equity financing; and (iii) limiting the Company's ability to sell its common stock in certain states within the United States, also potentially impacting the Company's ability to raise financing. If the Company's common stock is delisted from NYSE, the price paid by investors may not be recovered. As of the filing date of this Annual Report on Form 10-K, the Company has not regained compliance with Section 802.01C.

Because we face significant competition for acquisition and business opportunities, including from numerous companies with a business plan similar to ours, it may be difficult for us to fully execute our business strategy. Additionally, our subsidiaries also operate in highly competitive industries, limiting their ability to gain or maintain their positions in their respective industries.

We expect to encounter intense competition for acquisition and business opportunities from both strategic investors and other entities having a business objective similar to ours, such as private investors (which may be individuals or investment partnerships), blank check companies, and other entities, domestic and international, competing for the type of businesses that we may acquire. Many of these competitors possess greater technical, human and other resources, or more local industry knowledge, or greater access to capital, than we do, and our financial resources may be relatively limited when contrasted with those of many of these competitors. These factors may place us at a competitive disadvantage in successfully completing future acquisitions and investments.

In addition, while we believe that there are numerous target businesses that we could potentially acquire or invest in, our ability to compete with respect to the acquisition of certain target businesses that are sizable will be limited by our available financial resources. We may need to obtain additional financing in order to consummate future acquisitions and investment opportunities and cannot assure you that any additional financing will be available to us on acceptable terms, or at all, or that the terms of our existing financing arrangements will not limit our ability to do so. This inherent competitive limitation gives others an advantage in pursuing acquisition and investment opportunities.

Furthermore, our subsidiaries also face competition from both traditional and new market entrants that may adversely affect them as well, as discussed below in the risk factors related to the Infrastructure, Life Sciences and Spectrum segments.

Future acquisitions or business opportunities could involve unknown risks that could harm our business and adversely affect our financial condition and results of operations.

We are a diversified holding company that owns interests in a number of different businesses. We have in the past, and intend in the future, to acquire businesses or make investments, directly or indirectly through our subsidiaries, that involve unknown risks, some of which will be particular to the industry in which the investment or acquisition targets operate, including risks in industries with which we are not familiar or experienced. There can be no assurance our due diligence investigations will identify every matter that could have a material adverse effect on us or the entities that we may acquire. We may be unable to adequately address the financial, legal and operational risks raised by such investments or acquisitions, especially if we are unfamiliar with the relevant industry, which can lead to significant losses on material investments. The realization of any unknown risks could expose us to unanticipated costs and liabilities and prevent or limit us from realizing the projected benefits of the investments or acquisitions, which could adversely affect our financial condition and liquidity. In addition, our financial condition, results of operations and the ability to service our debt may be adversely impacted depending on the specific risks applicable to any business we invest in or acquire and our ability to address those risks.

We may not be able to successfully integrate acquisitions into our business, or realize the anticipated benefits of these acquisitions.

The integration of acquired businesses into our operations may be a complex and time-consuming process that may not be successful. Even if we successfully integrate these assets into our business and operations, there can be no assurance that we will realize the anticipated benefits and operating synergies. The Company's estimates regarding the earnings, operating cash flow, capital expenditures and liabilities resulting from these acquisitions may prove to be incorrect. For example, with any past or future acquisition, there is the possibility that:

- we may not have implemented company policies, procedures and cultures, in an efficient and effective manner;

- we may not be able to successfully reduce costs, increase advertising revenue or audience share;
- we may fail to retain and integrate employees and key personnel of the acquired business and assets;
- our management may be reassigned from overseeing existing operations by the need to integrate the acquired business;
- we may encounter unforeseen difficulties in extending internal control and financial reporting systems at the newly acquired business;
- we may fail to successfully implement technological integration with the newly acquired business or may exceed the capabilities of our technology infrastructure and applications;
- we may not be able to generate adequate returns;
- we may encounter and fail to address risks or other problems associated with or arising from our reliance on the representations and warranties and related indemnities, if any, provided to us by the sellers of acquired companies and assets;
- we may suffer adverse short-term effects on operating results through increased costs and may incur future impairments of goodwill associated with the acquired business;
- we may be required to increase our leverage and debt service or to assume unexpected liabilities in connection with our acquisitions; and
- we may encounter unforeseen challenges in entering new markets in which we have little or no experience.

The occurrence of any of these events or our inability generally to successfully implement our acquisition and investment strategy would have an adverse effect, which could be material, on our business, financial condition and results of operations.

We rely on information systems to conduct our businesses, and failure to protect these systems against security breaches and otherwise to implement, integrate, upgrade and maintain such systems in working order could have a material adverse effect on our results of operations, cash flows or financial condition.

The efficient operation of our businesses is dependent on computer hardware and software systems. For instance, INNOVATE and its subsidiaries rely on information systems to process customer orders, manage inventory and accounts receivable collections, purchase products, manage accounts payable processes, track costs and operations, maintain client relationships and accumulate financial results. Information technology security threats - from user error to cybersecurity attacks designed to gain unauthorized access to our systems, networks and data - are increasing in frequency and sophistication. Cybersecurity attacks may range from random attempts to coordinated and targeted attacks, including sophisticated computer crime and advanced persistent threats. Cybersecurity attacks could also include attacks targeting sensitive data or the security, integrity and/or reliability of the hardware and software installed in products we use. Additionally, the rapid advancement of AI may give rise to additional cyber vulnerabilities. Through generative AI, potential threats may have new tools to automate and refine attacks or evade detection. We treat such cybersecurity risks seriously given these threats pose a risk to the security of our systems and networks and the confidentiality, availability and integrity of our data. We devote resources to maintain and regularly update our systems and processes that are designed to protect the security of our computer systems, software, networks and other technology assets against attempts by unauthorized parties to obtain access to confidential information, destroy data, disrupt or degrade service, sabotage systems or cause other damage, and we have implemented certain review and approval procedures internally and with our banks; and have implemented system-wide changes.

Despite our implementation of industry-accepted security measures and technology, our information systems are vulnerable to and have been in the past subject to computer viruses, malicious codes, unauthorized access, phishing efforts, denial-of-service attacks and other cyber-attacks and we expect to be subject to similar attacks in the future as such attacks become more sophisticated and frequent. Although to date, such attacks have not had a material impact on our financial condition, results of operations or liquidity, there can be no assurance that our cyber-security measures and technology will adequately protect us from these and other risks, including internal and external risks such as natural disasters and power outages and internal risks such as insecure coding and human error. Attacks perpetrated against our information systems could result in loss of assets and critical information, theft of intellectual property or inappropriate disclosure of confidential information and could expose us to remediation costs and reputational damage. The inappropriate disclosure of confidential information or risk of theft of our intellectual property could result from the inappropriate use of AI systems by our employees, personnel, or business partners with access to such information, which could have an adverse effect on our business. In addition, the unexpected or sustained unavailability of the information systems or the failure of these systems to perform as anticipated for any reason, including cyber-security attacks and other intentional hacking, could subject us to legal claims if there is loss, disclosure or misappropriation of or access to our customers' information and could result in service interruptions, safety failures, security violations, regulatory compliance failures, an inability to protect information and assets against intruders, sensitive data being lost or manipulated and could otherwise disrupt our businesses and result in decreased performance, operational difficulties and increased costs, any of which could adversely affect our business, results of operations, financial condition or liquidity.

We may increase our operational size in the future, and may experience difficulties in managing growth.

We have adopted a business strategy that contemplates that we will expand our operations, including future acquisitions or other business opportunities, and as a result, we may need to increase our level of corporate functions, which may include hiring additional personnel to perform such functions and enhancing our information technology systems. Any future growth may increase our corporate operating costs and expenses and impose significant added responsibilities on members of our management, including the need to identify, recruit, maintain and integrate additional employees and implement enhanced informational technology systems. Our future financial performance and our ability to compete effectively will depend, in part, on our ability to manage any future growth effectively.

We may not be able to fully utilize our net operating loss and other tax carryforwards.

Our ability to utilize our net operating loss ("NOL") and other tax carryforward amounts, such as Section 163(j) disallowed interest carryforwards, to reduce taxable income in future years may be limited for various reasons. As a result of the enactment of the Tax Cuts and Jobs Act ("TCJA"), the deduction for NOLs arising in tax years after December 31, 2017, will be limited to 80% of taxable income, although they can be carried forward indefinitely. NOLs that arose prior to the years beginning January 1, 2018 are still subject to the same carryforward periods.

As of December 31, 2023, the U.S. consolidated group had approximately $179.2 million of federal NOL carryforwards and $211.7 million of Code Section 163(j) interest limitation carryforwards available to offset our future taxable income, which NOLs will begin to expire in 2034. Pursuant to the Code Sections 382 and 383, use of our NOLs and certain other tax attributes may be limited by an “ownership change” within the meaning of Code Section 382 and applicable Treasury Regulations. If a corporation undergoes an “ownership change,” which is generally defined as an increase of more than 50% of the value of a corporation’s stock owned by certain “5-percent shareholders” (as such term is defined in Internal Revenue Code Section 382) over a rolling three-year period, the corporation’s ability to use its pre-change NOLs and certain other pre-change tax attributes to offset its post-change income or taxes may be limited.

On August 30, 2021, the Company entered into a Tax Benefits Preservation Plan (the "2021 Preservation Plan"). The 2021 Preservation Plan was intended to help protect the Company's ability to use its tax net operating losses and other certain tax assets ("Tax Benefits") by deterring an "ownership change," as defined under the Code, by a person or group of affiliated or associated persons from acquiring beneficial ownership of 4.9% or more of the outstanding common shares. The 2021 Preservation Plan terminated on March 31, 2023, and, on April 1, 2023, the Company entered into a new Tax Benefits Preservation Plan (the “2023 Preservation Plan”). Refer to Note 16. Temporary Equity and Equity for additional information on both the expired 2021 Preservation Plan and 2023 Preservation Plan.

The 2023 Preservation Plan may adversely affect the marketability of our common stock by discouraging any individual, firm, corporation, partnership or other person or group of affiliated or associated persons from acquiring beneficial ownership of 4.9% or more shares of our common stock then outstanding. In addition, although the 2023 Preservation Plan is intended to reduce the likelihood of an ownership change that could adversely affect utilization of our NOLs, there is no assurance that the 2023 Preservation Plan will prevent all transfers that could result in such an ownership change. We may experience ownership changes in the future as a result of subsequent shifts in our common stock ownership, some of which may be outside of our control. If the Company were to experience an ownership change as defined in Code Section 382, its ability to utilize these tax attributes would be substantially limited.

For instance, in 2014, after substantial acquisitions of our common stock were reported by new beneficial owners, and we issued shares of our preferred stock, convertible into our common stock. We conducted a Section 382 review. The conclusions of this review indicated that an ownership change had occurred as of May 29, 2014.

Additionally, as a result of our common stock offering in November 2015 and our purchase of GrayWolf in November 2018, we triggered additional ownership changes at GrayWolf, imposing additional limitations on the use of the acquired NOL carryforward amounts. There can be no assurance that future ownership changes would not further negatively impact our NOL carryforward amounts because any future annual Section 382 limitation will ultimately depend on the value of our equity as determined for these purposes and the amount of unrealized gains immediately prior to such ownership change.

We may be required to restate certain of our financial statements in the future, which may lead to additional risks and uncertainties, including stockholder litigation and loss of investor confidence.

The preparation of financial statements in accordance with GAAP involves making estimates, judgments, interpretations and assumptions that affect reported amounts of assets, liabilities, revenues, expenses and income. These estimates, judgments, interpretations and assumptions are often inherently imprecise or uncertain, and any necessary revisions to prior estimates, judgments, interpretations or assumptions could lead to a restatement of our financial statements. Any such restatement or correction may be highly time consuming, may require substantial attention from management and significant accounting costs, may result in adverse regulatory actions by the SEC or NYSE, may result in stockholder litigation, may cause us to fail to meet our reporting obligations, and may cause investors to lose confidence in our reported financial information, leading to a decline in our stock price.

Our officers, directors, stockholders and their respective affiliates may have a pecuniary interest in certain transactions in which we are involved, and may also compete with us.

While we have adopted a code of ethics applicable designed to promote the ethical handling of actual or apparent conflicts of interest, we have not adopted a policy that expressly prohibits our directors, officers, stockholders or affiliates from having an interest in any transaction to which we are a party or in which we have an interest. Additionally, we do not have a policy that expressly prohibits any such persons from engaging for their own account in business activities of the types conducted by us. We have in the past engaged in transactions in which such persons have an interest (for example, the 2021 sale of CIG to Continental General Holdings LLC, an entity controlled by Michael Gorzynski, a former director of the Company). Subject to the terms of any applicable covenants in financing arrangements or other agreements, we may from time to time or may in the future enter into additional transactions in which such persons have an interest. In addition, such parties may have an interest in certain transactions such as strategic partnerships or joint ventures in which we are involved, and may also compete with us.

In the course of their other business activities, certain of our current and future directors and officers may become aware of business and acquisition opportunities that may be appropriate for presentation to us as well as the other entities with which they are affiliated. Such directors and officers are not required to and may therefore not present otherwise attractive business or acquisition opportunities to us.

Certain of our current and future directors and officers may become aware of business and acquisition opportunities which may be appropriate for presentation to us as well as the other entities with which they are or may be affiliated. Due to those directors' and officers' affiliations with other entities, they may have obligations to present potential business and acquisition opportunities to those entities, which could cause conflicts of interest. Moreover, as permitted by Delaware law, our Certificate of Incorporation contains a provision that renounces our expectation to certain corporate opportunities that are presented to our current and future directors that serve in capacities with other entities. Accordingly, our directors and officers may not present otherwise attractive business or acquisition opportunities to us of which they may become aware.

We may suffer adverse consequences if we are deemed an investment company and we may incur significant costs to avoid investment company status.

We believe we are not an investment company as defined by the Investment Company Act of 1940, and have operated our business in accordance with such view. If the SEC or a court were to disagree with us, we could be required to register as an investment company. This would subject us to disclosure and accounting rules geared toward investment, rather than operating, companies; limit our ability to borrow money, issue options, issue multiple classes of stock and debt, and engage in transactions with affiliates; and require us to undertake significant costs and expenses to meet the disclosure and other regulatory requirements to which we would be subject as a registered investment company.

We are subject to litigation in respect of which we are unable to accurately assess our level of exposure and which, if adversely determined, may have a material adverse effect on our financial condition and results of operations.

We are currently, and may become in the future, party to legal proceedings that are considered to be either ordinary or routine litigation incidental to our current or prior businesses or not material to our financial position or results of operations. We also are currently, or may become in the future, party to legal proceedings with the potential to be material to our financial position or results of operations. There can be no assurance that we will prevail in any litigation in which we may become involved, or that our insurance coverage will be adequate to cover any potential losses. To the extent that we sustain losses from any pending litigation which are not reserved or otherwise provided for or insured against, our business, results of operations, cash flows and/or financial condition could be materially adversely affected. Refer to Item 3, "Legal Proceedings."

Deterioration of global economic conditions could adversely affect our business.

The global economy and capital and credit markets have experienced exceptional turmoil and upheaval over the past several years. Ongoing concerns about the systemic impact of potential long-term and widespread recession and potentially prolonged economic recovery, volatile energy costs, fluctuating commodity prices and interest rates, volatile exchange rates, geopolitical issues, including the armed conflict in Ukraine and Israel, natural disasters and pandemic illness, instability in credit markets, cost and terms of credit, consumer and business confidence and demand, a changing financial, regulatory and political environment, and substantially increased unemployment rates have all contributed to increased market volatility and diminished expectations for many established and emerging economies, including those in which we operate. Furthermore, austerity measures that certain countries may agree to as part of any debt crisis or disruptions to major financial trading markets may adversely affect world economic conditions and have an adverse impact on our business. These general economic conditions could have a material adverse effect on our cash flow from operations, results of operations and overall financial condition.

The availability, cost and terms of credit also have been and may continue to be adversely affected by illiquid markets and wider credit spreads. Concern about the stability of the markets generally, and the strength of counterparties specifically, has led many lenders and institutional investors to reduce credit to businesses and consumers. These factors have led to a decrease in spending by businesses and consumers over the past several years, and a corresponding slowdown in global infrastructure spending.

Continued uncertainty in the U.S. and international markets and economies and prolonged stagnation in business and consumer spending may adversely affect our liquidity and financial condition, and the liquidity and financial condition of our customers, including our ability to access capital markets and obtain capital lease financing to meet liquidity needs.

Climate change may have an impact on our business.

While we seek to mitigate our business risks associated with climate change by establishing robust environmental programs and partnering with organizations who are also focused on mitigating their own climate-related risks, we recognize that there are inherent climate change-related risks wherever business is conducted. Any of our primary locations may be vulnerable to the adverse effects of climate change. For example, our offices globally have historically experienced, and are projected to continue to experience, climate-related events at an increasing frequency, including drought, water scarcity, heat waves, wildfires and resultant air quality impacts and power shutoffs associated with wildfire prevention. Changing market dynamics, global policy developments and the increasing frequency and impact of extreme weather events on critical infrastructure in the U.S. and elsewhere have the potential to disrupt our business, the business of our third-party suppliers and the business of our customers, and may cause us to experience higher attrition, losses and additional costs to maintain or resume operations.

We are subject to risks associated with our international operations.

We operate in international markets, and may in the future consummate additional investments in or acquisitions of foreign businesses. Our international operations are subject to a number of risks, including:

- political conditions and events, including embargo;
- changing regulatory environments;
- outbreaks of pandemic diseases, including new COVID-19 variants, or fear of such outbreaks;
- inflationary pressures;
- restrictive actions by U.S. and foreign governments;
- the imposition of withholding or other taxes on foreign income, tariffs or restrictions on foreign trade and investment;
- adverse tax consequences;
- limitations on repatriation of earnings and cash;
- currency exchange controls and import/export quotas;
- nationalization, expropriation, asset seizure, blockades and blacklisting;
- limitations in the availability, amount or terms of insurance coverage;
- loss of contract rights and inability to adequately enforce contracts;
- political instability, war and civil disturbances or other risks that may limit or disrupt markets, such as terrorist attacks, piracy and kidnapping;
- fluctuations in currency exchange rates, hard currency shortages and controls on currency exchange that affect demand for our services and our profitability;
- potential noncompliance with a wide variety of anti-corruption laws and regulations, such as the U.S. Foreign Corrupt Practices Act of 1977 (the "FCPA"), and similar non-U.S. laws and regulations, including the U.K. Bribery Act 2010 (the "Bribery Act");
- labor strikes and shortages;
- changes in general economic and political conditions;
- adverse changes in foreign laws or regulatory requirements; and
- different liability standards and legal systems that may be less developed and less predictable than those in the United States.

If we are unable to adequately address these risks, we could lose our ability to operate in certain international markets and our business, financial condition or results of operations could be materially adversely affected.

The U.S. Departments of Justice, Commerce, Treasury and other agencies and authorities have a broad range of civil and criminal penalties they may seek to impose against companies for violations of export controls, the FCPA, and other federal statutes, sanctions and regulations, including those established by the Office of Foreign Assets Control ("OFAC") and, increasingly, similar or more restrictive foreign laws, rules and regulations. By virtue of these laws and regulations, and under laws and regulations in other jurisdictions, including the European Union and the United Kingdom, we may be obliged to limit our business activities, we may incur costs for compliance programs and we may be subject to enforcement actions or penalties for noncompliance.

In recent years, U.S. and foreign governments have increased their oversight and enforcement activities with respect to these laws and we expect the relevant agencies to continue to increase these activities. A violation of these laws, sanctions or regulations could materially adversely affect our business, financial condition or results of operations.

The Company has compliance policies in place for its employees with respect to FCPA, OFAC, the Bribery Act and similar laws. Our operating subsidiaries also have relevant compliance policies in place for their employees, which are tailored to their operations. However, there can be no assurance that our employees, consultants or agents, or those of our subsidiaries or investees, will not engage in conduct for which we may be held responsible. Violations of the FCPA, the Bribery Act, the rules and regulations established by OFAC and other laws, sanctions or regulations may result in severe criminal or civil penalties, and we may be subject to other liabilities, which could materially adversely affect our business, financial condition or results of operations.

Additionally, changes in U.S. social, political, regulatory and economic conditions or in laws and policies governing foreign trade, manufacturing, development and investment in the territories and countries where we currently develop and sell products, and any negative sentiments towards the United States as a result of such changes, could adversely affect our business. Negative sentiments towards the United States among non-U.S. customers and among non-U.S. employees or prospective employees could adversely affect sales or hiring and retention, respectively.

We face certain risks associated with the acquisition or disposition of businesses and lack of control over certain of our investments.

In pursuing our corporate strategy, we may acquire, dispose of or exit businesses or reorganize existing investments. The success of this strategy is dependent upon our ability to identify appropriate opportunities, negotiate transactions on favorable terms and ultimately complete such transactions.

In the course of our acquisitions, we may not acquire 100% ownership of certain of our operating subsidiaries, or we may face delays in completing certain acquisitions, including in acquiring full ownership of certain of our operating companies. Once we complete acquisitions or reorganizations there can be no assurance that we will realize the anticipated benefits of any transaction, including revenue growth, operational efficiencies or expected synergies. If we fail to recognize some or all of the strategic benefits and synergies expected from a transaction, goodwill and intangible assets may be impaired in future periods. The negotiations associated with the acquisition and disposition of businesses could also disrupt our ongoing business, distract management and employees or increase our expenses.

If we dispose of or otherwise exit certain businesses, there can be no assurance that we will not incur certain disposition related charges, or that we will be able to reduce overhead related to the divested assets.

In the ordinary course of our business, we evaluate the potential disposition of assets and businesses that may no longer help us meet our objectives or that no longer fit with our broader strategy, such as the dispositions of our Clean Energy and Insurance segments in 2021 or the acquisition of Banker Steel by our Infrastructure segment in 2021. When we decide to sell assets or a business, we may encounter difficulty in finding buyers or alternative exit strategies on acceptable terms in a timely manner, which could delay the accomplishment of our strategic objectives, or we may dispose of a business at a price or on terms which are less than we had anticipated. In addition, there is a risk that we sell a business whose subsequent performance exceeds our expectations, in which case our decision would have potentially sacrificed enterprise value.

We also own minority interests in a number of entities, such as MediBeacon, Triple Ring Technologies, Inc. and Scaled Cell Solutions, Inc., over which we do not exercise, or have only limited, management control, and we are, therefore, unable to direct or manage the business to realize the anticipated benefits that we can achieve through full integration.

Our development stage companies may never produce revenues or income.

We have made investments in and own a majority stake in a number of development stage companies, primarily in our Life Sciences segment. Each of these companies is at an early stage of development and is subject to all business risks associated with a new enterprise, including constraints on their financial and personnel resources, lack of established credit, the need to establish meaningful and beneficial vendor and customer relationships and uncertainties regarding product development and future revenues. We anticipate that many of these companies will continue to incur substantial additional operating losses for at least the next several years and expect their losses to increase as research and development efforts expand. There can be no assurance as to when or whether any of these companies will be able to develop significant sources of revenue or that any of their respective operations will become profitable, even if any of them is able to commercialize any products. As a result, we may not realize any returns on our investments in these companies, which could adversely affect our business, results of operations, financial condition or liquidity.

We could consume resources in researching acquisitions, business opportunities or financings and capital market transactions that are not consummated, which could materially adversely affect subsequent attempts to locate and acquire or invest in another business.

We anticipate that the investigation of each specific acquisition or business opportunity and the negotiation, drafting and execution of relevant agreements, disclosure documents and other instruments with respect to such transaction will require substantial management time and attention and substantial costs for financial advisors, accountants, attorneys and other advisors. If a decision is made not to consummate a specific acquisition, business opportunity or financing and capital market transaction, the costs incurred up to that point for the proposed transaction likely would not be recoverable. Furthermore, even if an agreement is reached relating to a specific acquisition, investment target or financing, we may fail to consummate the investment or acquisition for any number of reasons, including those beyond our control. Any such event could consume significant management time and result in a loss to us of the related costs incurred, which could adversely affect our financial position and our ability to consummate other acquisitions and investments.

There may be tax consequences associated with our acquisition, investment, holding and disposition of target companies and assets.

We may incur significant taxes in connection with effecting acquisitions of, or investments in, holding, receiving payments from, operating or disposing of target companies and assets. Our decision to make a particular acquisition, sell a particular asset or increase or decrease a particular investment may be based on considerations other than the timing and amount of taxes owed as a result thereof. We may remain liable for certain tax obligations of certain disposed companies, and we may be required to make material payments in connection therewith.

Our participation in any future joint investment could be adversely affected by our lack of sole decision-making authority, our reliance on a partner's financial condition and disputes between us and the relevant partners.

We have, indirectly through our subsidiaries, formed joint ventures, and may in the future engage in similar joint ventures with third parties. In such circumstances, we may not be in a position to exercise significant decision-making authority if we do not own a substantial majority of the equity interests of such joint venture or otherwise have contractual rights entitling us to exercise such authority. These ventures may involve risks not present were a third party not involved, including the possibility that partners might become insolvent or fail to fund their share of required capital contributions. In addition, partners may have economic or other business interests or goals that are inconsistent with our business interests or goals, and may be in a position to take actions contrary to our policies or objectives. Disputes between us and partners may result in litigation or arbitration that would increase our costs and expenses and divert a substantial amount of management's time and effort away from our businesses. We may also, in certain circumstances, be liable for the actions of our third-party partners which could have a material adverse effect on us.

We and our subsidiaries rely on trademark, copyright, trade secret, contractual restrictions and patent rights to protect our intellectual property and proprietary rights and if these rights are impaired, then our ability to generate revenue and our competitive position may be harmed.

If we fail to protect our intellectual property rights adequately, including through the improper use of AI by our personnel or business partners, our competitors might gain access to our technology, and our business might be harmed. In addition, defending our intellectual property rights might entail significant expense. Any of our trademarks or other intellectual property rights may be challenged by others or invalidated through administrative process or litigation. While we have some U.S. patents and pending U.S. patent applications, we may be unable to obtain patent protection for the technology covered in our patent applications. In addition, our existing patents and any patents issued in the future may not provide us with competitive advantages, or may be successfully challenged by third parties. Furthermore, legal standards relating to the validity, enforceability and scope of protection of intellectual property rights are uncertain. Effective patent, trademark, copyright and trade secret protection may not be available to us in every country in which we operate. The laws of some foreign countries may not be as protective of intellectual property rights as those in the U.S., and mechanisms for enforcement of intellectual property rights may be inadequate. Accordingly, despite our efforts, we may be unable to prevent third parties from infringing upon or misappropriating our intellectual property. In addition, some of our operating subsidiaries may use trademarks which have not been registered and may be more difficult to protect.

We might be required to spend significant resources to monitor and protect our intellectual property rights. We may initiate claims or litigation against third parties for infringement of our proprietary rights or to establish the validity of our proprietary rights. Any litigation, whether or not it is resolved in our favor, could result in significant expense to us and divert the efforts of our technical and management personnel.

We may issue additional shares of common stock or preferred stock, which could dilute the interests of our stockholders and present other risks.

Our certificate of incorporation, as amended, authorizes the issuance of up to 160,000,000 shares of common stock and 20,000,000 shares of preferred stock.

As of December 31, 2023, INNOVATE has 80,722,983 issued and 79,234,991 outstanding shares of its common stock, and 16,125 shares of Series A-3 and Series A-4 preferred stock issued and outstanding. However, our certificate of incorporation authorizes our board of directors, from time to time, subject to limitations prescribed by law and any consent rights granted to holders of outstanding shares of preferred stock, to issue additional shares of preferred stock having rights that are senior to those afforded to the holders of our common stock. We also have reserved shares of common stock for issuance pursuant to our broad-based equity incentive plans, upon exercise of stock options and other equity-based awards granted thereunder, and pursuant to other equity compensation arrangements.

We may issue shares of common stock or additional shares of preferred stock to raise additional capital, to complete a business combination or other acquisition, to capitalize new businesses or new or existing businesses of our operating subsidiaries or pursuant to other employee incentive plans, any of which could dilute the interests of our stockholders and present other risks.

The issuance of additional shares of common stock or preferred stock may, among other things:

- significantly dilute the equity interest and voting power of all other stockholders;
- subordinate the rights of holders of our outstanding common stock and/or preferred stock if preferred stock is issued with rights senior to those afforded to holders of our common stock and/or preferred stock;
- trigger an adjustment to the price at which all or a portion of our outstanding preferred stock converts into our common stock, if such stock is issued at a price lower than the then-applicable conversion price;
- entitle our existing holders of preferred stock to purchase a portion of such issuance to maintain their ownership percentage, subject to certain exceptions;
- call for us to make dividend or other payments not available to the holders of our common stock; and

- cause a change in control of our company if a substantial number of shares of our common stock are issued and/or if additional shares of preferred stock having substantial voting rights are issued.

The issuance of additional shares of common stock or preferred stock, or perceptions in the market that such issuances could occur, may also adversely affect the prevailing market price of our outstanding common stock and impair our ability to raise capital through the sale of additional equity securities.

Conversion of the 2026 Convertible Notes will dilute the ownership interest of existing stockholders, including holders who had previously converted their Convertible Notes, or may otherwise depress the market price of our common stock.

As of December 31, 2023, the holders of our 2026 Convertible Notes had rights to convert their notes into 12,126,046 shares of our common stock. The conversion of some or all of our 2026 Convertible Notes will dilute the ownership interests of existing stockholders. Any sales in the public market of the shares of our common stock issuable upon such conversion could adversely affect prevailing market prices of our common stock. In addition, the existence of the 2026 Convertible Notes may encourage short selling by market participants because the conversion of the notes could be used to satisfy short positions, or anticipated conversion of the notes into shares of our common stock could depress the market price of our common stock.

Future sales of substantial amounts of our common stock by holders of our preferred stock or other significant stockholders may adversely affect the market price of our common stock.

As of December 31, 2023, the holders of our outstanding preferred stock had certain rights to convert their Preferred Stock into 3,616,233 shares of our common stock.

Pursuant to a second amended and restated registration rights agreement, dated January 5, 2015, entered into in connection with the issuance of the preferred stock, we have granted registration rights to the purchasers of our preferred stock and certain of their transferees with respect to INNOVATE common stock held by them and common stock underlying the preferred stock. This registration rights agreement allows these holders, subject to certain conditions, to require us to register the sale of their shares under the federal securities laws. Furthermore, the shares of our common stock held by these holders, as well as other significant stockholders, may be sold into the public market under Rule 144 of the Securities Act of 1933, as amended.

Future sales of substantial amounts of our common stock into the public market whether by holders of the preferred stock, by other holders of substantial amounts of our common stock or by us, or perceptions in the market that such sales could occur, may adversely affect the prevailing market price of our common stock and impair our ability to raise capital through the sale of additional equity securities.

Price fluctuations in our common stock could result from general market and economic conditions and a variety of other factors.

The trading price of our common stock may be highly volatile and could be subject to fluctuations in response to a number of factors beyond our control, including:

- actual or anticipated fluctuations in our results of operations and the performance of our competitors;
- reaction of the market to our announcement of any future acquisitions or investments;
- the public's reaction to our press releases, our other public announcements and our filings with the SEC;
- changes in general economic conditions;
- outbreaks of pandemic diseases, including coronavirus, or fear of such outbreaks; and
- actions of our equity investors, including sales of our common stock by significant stockholders.

Delaware law and our charter documents contain provisions that could discourage or prevent a potential takeover, even if such a transaction would be beneficial to our stockholders.

Some provisions of our certificate of incorporation and bylaws, as well as provisions of Delaware law, may discourage, delay or prevent a merger or acquisition that a stockholder may consider favorable. These include provisions:

- authorizing a board of directors to issue preferred stock;
- prohibiting cumulative voting in the election of directors;
- limiting the persons who may call special meetings of stockholders;
- prohibiting stockholder actions by written consent;
- creating a classified board of directors pursuant to which our directors are elected for staggered three-year terms;
- permitting the board of directors to increase the size of the board and to fill vacancies;
- requiring a super-majority vote of our stockholders to amend our bylaws and certain provisions of our certificate of incorporation; and
- establishing advance notice requirements for nominations for election to the board of directors or for proposing matters that can be acted on by stockholders at stockholder meetings.

We are subject to the provisions of Section 203 of the Delaware General Corporation Law which limit the right of a corporation to engage in a

business combination with a holder of 15 percent or more of the corporation's outstanding voting securities, or certain affiliated persons.

Although we believe that these charter and bylaw provisions, and provisions of Delaware law, provide an opportunity for the board to assure that our stockholders realize full value for their investment, they could have the effect of delaying or preventing a change of control, even under circumstances that some stockholders may consider beneficial.

Actions of activist stockholders, including a proxy contest, could be disruptive and potentially costly and the possibility that activist stockholders may contest, or seek changes that conflict with, our strategic direction could cause uncertainty about the strategic direction of our business. Such actions may also trigger a change in control under certain agreements to which the Company is party, which could materially and adversely affect our business.

Under certain circumstances arising out of, or related to, certain actions of activist stockholders, including a proxy contest or consent solicitation, a change in a majority of our board of directors may trigger the requirement that we make an offer to redeem our shares of preferred stock at a price per share of preferred stock, equal to the greater of (i) the accrued value of the preferred stock, plus any accrued and unpaid dividends (to the extent not included in the accrued value of preferred stock), and (ii) the value that would be received if the share of preferred stock were converted into common stock, the occurrence of which could materially and adversely affect our business. In such instance, the Company cannot assure stockholders that it would be able to obtain the financing on commercially reasonable terms (if at all) to fund the offer to redeem all of the preferred stock. If any of these risks were to occur, our business, operating results and financial condition could be materially and adversely affected.

Bank failures or other similar events could adversely affect our and our customers' and vendors' liquidity and financial performance.

We maintain domestic cash deposits in Federal Deposit Insurance Corporation ("FDIC") insured banks, in excess of FDIC insurance limits. Bank failures or other similar events could disrupt our access to bank deposits or otherwise adversely impact our liquidity and financial performance. There can be no assurance that our deposits in excess of the FDIC or other comparable insurance limits will be backstopped by the U.S. or applicable foreign government in the event of a failure or liquidity crisis.

Our customers and vendors may suffer similar adverse effects from a bank failure. Any resulting adverse effects to our customers could reduce the demand for our services or affect our allowance for doubtful accounts and collectability of accounts receivable. Adverse effects to our vendors could affect our ability to receive the resources and supplies we need for our business. These factors could materially affect our future financial results.

In addition, instability, liquidity constraints or other distress in the financial markets, including the effects of bank failures or similar adverse developments could impair the ability of one or more of the banks participating in our current credit facilities from honoring their commitments. This could have an adverse effect on our business if we were not able to replace those commitments or to locate other sources of liquidity on acceptable terms.

Increased adoption of artificial intelligence and government regulation could create additional costs.

Failure to keep up with the potential increased use of AI by competitors could have adverse effects on our competitiveness in the markets that we operate, and heightened government scrutiny and regulation surrounding AI, including generative AI, could lead to increased or added compliance and regulatory costs.

Risks Related to the Infrastructure segment

DBMG's business is dependent upon major construction contracts, the unpredictable timing of which may result in significant fluctuations in its cash flow due to the timing of receipt of payment under such contracts.

DBMG's cash flow is dependent upon obtaining major construction contracts primarily from general contractors and engineering firms responsible for commercial and industrial construction projects, such as high- and low-rise buildings and office complexes, hotels and casinos, convention centers, sports arenas, shopping malls, hospitals, dams, bridges, mines and power plants. The timing of or failure to obtain contracts, delays in awards of contracts, cancellations of contracts, delays in completion of contracts, or failure to obtain timely payment from DBMG's customers, could result in significant periodic fluctuations in cash flows from DBMG's operations. In addition, many of DBMG's contracts require it to satisfy specific progress or performance milestones in order to receive payment from the customer. As a result, DBMG may incur significant costs for engineering, materials, components, equipment, labor or subcontractors prior to receipt of payment from a customer. Such expenditures could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

The nature of DBMG's primary contracting terms for its contracts, including fixed-price and cost-plus pricing, could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG's projects are awarded through a competitive bid process or are obtained through negotiation, but in either case generally using one of two types of contract pricing approaches: fixed-price or cost-plus pricing. Under fixed-price contracts, DBMG performs its services and executes its projects at an established price, subject to adjustment only for change orders approved by the customer, and, as a result, it may benefit from cost savings but be unable to recover any cost overruns. If DBMG does not execute such a contract within cost estimates, it may incur losses or the project may be less profitable than expected. Historically, the majority of DBMG's contracts have been fixed-price arrangements. The revenue, cost and gross profit realized on such contracts can vary, sometimes substantially, from the original projections due to a variety of factors, including, but not limited to:

- failure to properly estimate costs of materials, including steel and steel components, engineering services, equipment, labor or subcontractors;
- costs incurred in connection with modifications to a contract that may be unapproved by the customer as to scope, schedule, and/or price;
- unanticipated technical problems with the structures, equipment or systems we supply;
- unanticipated costs or claims, including costs for project modifications, customer-caused delays, errors or changes in specifications or designs, or contract termination;
- changes in the costs of materials, engineering services, equipment, labor or subcontractors;
- changes in labor conditions, including the availability and productivity of labor;
- productivity and other delays caused by weather conditions;
- failure to engage necessary suppliers or subcontractors, or failure of such suppliers or subcontractors to perform;
- difficulties in obtaining required governmental permits or approvals;
- changes in laws and regulations; and
- changes in general economic conditions.

Under cost-plus contracts, DBMG receives reimbursement for its direct labor and material cost, plus a specified fee in excess thereof, which is typically a fixed rate per hour, an overall fixed fee, or a percentage of total reimbursable costs, up to a maximum amount, which is an arrangement that may protect DBMG against cost overruns. If DBMG is unable to obtain proper reimbursement for all costs incurred due to improper estimates, performance issues, customer disputes, or any of the additional factors noted above for fixed-price contracts, the project may be less profitable than expected.

Generally, DBMG's contracts and projects vary in length from 1 to 24 months, depending on the size and complexity of the project, project owner demands and other factors. The foregoing risks are exacerbated for projects with longer-term durations because there is an increased risk that the circumstances upon which DBMG based its original estimates will change in a manner that increases costs. In addition, DBMG sometimes bears the risk of delays caused by unexpected conditions or events. To the extent there are future cost increases that DBMG cannot recover from its customers, suppliers or subcontractors, the outcome could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

Furthermore, revenue and gross profit from DBMG's contracts can be affected by contract incentives or penalties that may not be known or finalized until the later stages of the contract term. Some of DBMG's contracts provide for the customer's review of its accounting and cost control systems to verify the completeness and accuracy of the reimbursable costs invoiced. These reviews could result in reductions in reimbursable costs and labor rates previously billed to the customer.

The cumulative impact of revisions in total cost estimates during the progress of work is reflected in the period in which these changes become known, including, to the extent required, the reversal of profit recognized in prior periods and the recognition of losses expected to be incurred on contracts in progress. Due to the various estimates inherent in DBMG's contract accounting, actual results could differ from those estimates.

DBMG's billed and unbilled revenue may be exposed to potential risk if a project is terminated or canceled or if DBMG's customers encounter financial difficulties.

DBMG's contracts often require it to satisfy or achieve certain milestones in order to receive payment for the work performed. As a result, under these types of arrangements, DBMG may incur significant costs or perform significant amounts of services prior to receipt of payment. If the ultimate customer does not proceed with the completion of the project or if the customer or contractor under which DBMG is a subcontractor defaults on its payment obligations, DBMG may face difficulties in collecting payment of amounts due to it for the costs previously incurred. If DBMG is unable to collect amounts owed to it, this could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG may be exposed to additional risks as it obtains new significant awards and executes its backlog, including greater backlog concentration in fewer projects, potential cost overruns and increasing requirements for letters of credit, and inability to fully realize the revenue value reported in its backlog, a substantial portion of which is attributable to a relatively small number of large contracts or other commitments, each of which could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

As DBMG obtains new significant project awards, these projects may use larger sums of working capital than other projects and DBMG's backlog may become concentrated among a smaller number of customers. At December 31, 2023, DBMG's backlog was $1,057.2 million, consisting of $1,032.9 million under contracts or purchase orders and $24.3 million under letters of intent or notices to proceed. Approximately $487.3 million, representing 46.1% of DBMG's backlog at December 31, 2023, was attributable to five contracts, letters of intent, notices to proceed or purchase orders. If any significant projects such as these currently included in DBMG's backlog or awarded in the future were to have material cost overruns, or be significantly delayed, modified or canceled, DBMG's results of operations, cash flows or financial position could be adversely impacted, and backlog could decrease substantially if one or more of these projects terminate or reduce their scope.

Moreover, DBMG may be unable to replace the projects that it executes in its backlog. Additionally, as DBMG converts its significant projects from backlog into active construction, it may face significantly greater requirements for the provision of letters of credit or other forms of credit enhancements which exceed its current credit facilities. We can provide no assurance that DBMG would be able to access such capital and credit as needed or that it would be able to do so on economically attractive terms.

Commitments may be in the form of written contracts, letters of intent, notices to proceed and purchase orders. New awards may also include estimated amounts of work to be performed based on customer communication and historic experience and knowledge of our customers' intentions. Backlog consists of projects which have either not yet been started or are in progress but are not yet complete. In the latter case, the revenue value reported in backlog is the remaining value associated with work that has not yet been completed, which increases or decreases to reflect modifications in the work to be performed under a given commitment. The revenue projected in DBMG's backlog may not be realized or, if realized, may not be profitable as a result of poor contract terms or performance.

Due to project terminations, suspensions or changes in project scope and schedule, we cannot predict with certainty when or if DBMG's backlog will be performed. From time to time, projects are canceled that appeared to have a high certainty of going forward at the time they were recorded as new awards. In the event of a project cancellation, DBMG typically has no contractual right to the total revenue reflected in its backlog. Some of the contracts in DBMG's backlog provide for cancellation fees or certain reimbursements in the event customers cancel projects. These cancellation fees usually provide for reimbursement of DBMG's out-of-pocket costs, costs associated with work performed prior to cancellation, and, to varying degrees, a percentage of the profit DBMG would have realized had the contract been completed. Although DBMG may be reimbursed for certain costs, it may be unable to recover all direct costs incurred and may incur additional unrecoverable costs due to the resulting under-utilization of DBMG's assets.

DBMG's failure to meet contractual schedule or performance requirements could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

In certain circumstances, DBMG guarantees project completion by a scheduled date or certain performance levels. Failure to meet these schedule or performance requirements could result in a reduction of revenue and additional costs, and these adjustments could exceed projected profit. Project revenue or profit could also be reduced by liquidated damages withheld by customers under contractual penalty provisions, which can be substantial and can accrue on a daily basis. Schedule delays can result in costs exceeding our projections for a particular project. Performance problems for existing and future contracts could cause actual results of operations to differ materially from those previously anticipated and could cause us to suffer damage to our reputation within our industry and our customer base.

DBMG's government contracts may be subject to modification or termination, which could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG is a provider of services to U.S. government agencies and is therefore exposed to risks associated with government contracting. Government agencies typically can terminate or modify contracts to which DBMG is a party at their convenience, due to budget constraints or various other reasons. As a result, DBMG's backlog may be reduced or it may incur a loss if a government agency decides to terminate or modify a contract to which DBMG is a party. DBMG is also subject to audits, including audits of internal control systems, cost reviews and investigations by government contracting oversight agencies. As a result of an audit, the oversight agency may disallow certain costs or withhold a percentage of interim payments. Cost disallowances may result in adjustments to previously reported revenue and may require DBMG to refund a portion of previously collected amounts. In addition, failure to comply with the terms of one or more of our government contracts or government regulations and statutes could result in DBMG being suspended or debarred from future government projects for a significant period of time, possible civil or criminal fines and penalties, the risk of public scrutiny of our performance, and potential harm to DBMG's reputation, each of which could have a material adverse effect on DBMG's results of operations, cash flows or financial condition. Other remedies that government agencies may seek for improper activities or performance issues include sanctions such as forfeiture of profit and suspension of payments.

In addition to the risks noted above, legislatures typically appropriate funds on a year-by-year basis, while contract performance may take more than one year. As a result, contracts with government agencies may be only partially funded or may be terminated, and DBMG may not realize all of the potential revenue and profit from those contracts. Appropriations and the timing of payment may be influenced by, among other things, the state of the economy, competing political priorities, curtailments in the use of government contracting firms, budget constraints, the timing and amount of tax receipts and the overall level of government expenditures.

DBMG is exposed to potential risks and uncertainties associated with its reliance on subcontractors and third-party vendors to execute certain projects.

DBMG relies on third-party suppliers, especially suppliers of steel and steel components, and subcontractors to assist in the completion of projects. To the extent these parties cannot execute their portion of the work and are unable to deliver their services, equipment or materials according to the agreed-upon contractual terms, or DBMG cannot engage subcontractors or acquire equipment or materials, DBMG's ability to complete a project in a timely manner may be impacted. Furthermore, when bidding or negotiating for contracts, DBMG must make estimates of the amounts these third parties will charge for their services, equipment and materials. If the amount DBMG is required to pay for third-party goods and services in an effort to meet its contractual obligations exceeds the amount it has estimated, DBMG could experience project losses or a reduction in estimated profit.

Persistent inflation and economic uncertainty may negatively impact DBMG's business.

Inflation in the United States and worldwide has increased DBMG's costs and may result in additional cost increases, including of steel and welding wire components and other inputs that are critical to the completion of DBMG's projects, may cause additional shortages of supplies and components, may increase cost of borrowing, and may continue to reduce DBMG's purchasing power, all of which would have a negative impact on DBMG's results of operation. Due to competitive pressure and pressure from DBMG's customers, DBMG may not be able to offset the impacts of inflation in the price of its products. Additionally, continued inflation and economic uncertainty may result in DBMG's customers decreasing the scope, canceling, or delaying projects in process.

Any increase in the price of, or change in supply and demand for, the steel and steel components that DBMG utilizes to complete projects could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

The prices of the steel and steel components that DBMG utilizes in the course of completing projects are susceptible to price fluctuations due to supply and demand trends, energy costs, transportation costs, government regulations, duties and tariffs, changes in currency exchange rates, price controls, general economic conditions and other unforeseen circumstances. For example, the recent armed conflicts in Ukraine and Israel have resulted in significant uncertainty in the commodities markets. A prolonged conflict and any sanctions or import controls targeting the Russian oil and natural gas industries could lead to sustained increases in energy prices. Although DBMG may attempt to pass on certain of these increased costs to its customers, it may not be able to pass all of these cost increases on to its customers. As a result, DBMG's margins may be adversely impacted by such cost increases.

DBMG's dependence on suppliers of steel and steel components makes it vulnerable to a disruption in the supply of its products.

DBMG purchases a majority of the steel and steel components utilized in the course of completing projects from several domestic and foreign steel producers and suppliers. DBMG generally does not have long-term contracts with its suppliers. An adverse change in any of the following could have a material adverse effect on DBMG's results of operations or financial condition:

- its ability to identify and develop relationships with qualified suppliers;
- the terms and conditions upon which it purchases products from its suppliers, including applicable exchange rates, transport costs and other costs, its suppliers' willingness to extend credit to it to finance its inventory purchases and other factors beyond its control;
- financial condition of its suppliers;
- political instability in the countries in which its suppliers are located;
- its ability to import products;
- its suppliers' noncompliance with applicable laws, trade restrictions and tariffs;
- its inability to find replacement suppliers in the event of a deterioration of the relationship with current suppliers; or
- its suppliers' ability to manufacture and deliver products according to its standards of quality on a timely and efficient basis.

Intense competition in the markets DBMG serves could reduce DBMG's market share and earnings.

The principal geographic and product markets DBMG serves are highly competitive, and this intense competition is expected to continue. DBMG competes with other contractors for commercial, industrial and specialty projects on a local, regional, or national basis. Continued service within these markets requires substantial resources and capital investment in equipment, technology and skilled personnel, and certain of DBMG's competitors have financial and operating resources greater than DBMG. Competition also places downward pressure on DBMG's contract prices and margins. Among the principal competitive factors within the industry are price, timeliness of completion of projects, quality, reputation, and the desire of customers to utilize specific contractors with whom they have favorable relationships and prior experience.

While DBMG believes that it maintains a competitive advantage with respect to these factors, failure to continue to do so or to meet other competitive challenges could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG's customers' ability to receive the applicable regulatory and environmental approvals for projects and the timeliness of those approvals could adversely affect DBMG's business.

The regulatory permitting process for DBMG's projects requires significant investments of time and money by DBMG's customers and DBMG. There are no assurances that DBMG's customers or DBMG will obtain the necessary permits for these projects. Applications for permits may be opposed by governmental entities, individuals or special interest groups, resulting in delays and possible non-issuance of the permits.

DBMG's failure to obtain or maintain required licenses may adversely affect its business.

DBMG is subject to licensure and holds licenses in each of the states in the United States in which it operates and in certain local jurisdictions within such states. While we believe that DBMG is in material compliance with all contractor licensing requirements in the various jurisdictions in which it operates, the failure to obtain, loss or revocation of any license or the limitation on any of DBMG's primary services thereunder in any jurisdiction in which it conducts substantial operations could prevent DBMG from conducting further operations in such jurisdiction and have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

Volatility in equity and credit markets could adversely impact DBMG due to its impact on the availability of funding for DBMG's customers, suppliers and subcontractors.

Some of DBMG's ultimate customers, suppliers and subcontractors have traditionally accessed commercial financing and capital markets to fund their operations, and the availability of funding from those sources could be adversely impacted by volatile equity or credit markets. The unavailability of financing could lead to the delay or cancellation of projects or the inability of such parties to pay DBMG or provide needed products or services and thereby have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG's business may be adversely affected by bonding and letter of credit capacity.

Certain of DBMG's projects require the support of bid and performance surety bonds or letters of credit. A restriction, reduction, or termination of DBMG's surety bond agreements or letter of credit facilities could limit its ability to bid on new project opportunities, thereby limiting new awards, or to perform under existing awards.

DBMG is vulnerable to significant fluctuations in its liquidity that may vary substantially over time.

DBMG's operations could require the utilization of large sums of working capital, sometimes on short notice and sometimes without assurance of recovery of the expenditures. Circumstances or events that could create large cash outflows include losses resulting from fixed-price contracts, environmental liabilities, litigation risks, contract initiation or completion delays, customer payment problems, professional and product liability claims and other unexpected costs. There is no guarantee that DBMG's facilities will be sufficient to meet DBMG's liquidity needs or that DBMG will be able to maintain such facilities or obtain any other sources of liquidity on attractive terms, or at all.

DBMG's projects expose it to potential professional liability, product liability, warranty and other claims.

DBMG's operations are subject to the usual hazards inherent in providing engineering and construction services for the construction of often large commercial industrial facilities, such as the risk of accidents, fires and explosions. These hazards can cause personal injury and loss of life, business interruptions, property damage and pollution and environmental damage. DBMG may be subject to claims as a result of these hazards. In addition, the failure of any of DBMG's products to conform to customer specifications could result in warranty claims against it for significant replacement or rework costs, which could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

Although DBMG generally does not accept liability for consequential damages in its contracts, should it be determined liable, it may not be covered by insurance or, if covered, the dollar amount of these liabilities may exceed applicable policy limits. Any catastrophic occurrence in excess of insurance limits at project sites involving DBMG's products and services could result in significant professional liability, product liability, warranty or other claims against DBMG. Any damages not covered by insurance, in excess of insurance limits or, if covered by insurance, subject to a high deductible, could result in a significant loss for DBMG, which may reduce its profits and cash available for operations. These claims could also make it difficult for DBMG to obtain adequate insurance coverage in the future at a reasonable cost. Additionally, customers or subcontractors that have agreed to indemnify DBMG against such losses may refuse or be unable to pay DBMG.

DBMG may experience increased costs and decreased cash flow due to compliance with environmental laws and regulations, liability for contamination of the environment or related personal injuries.

DBMG is subject to environmental laws and regulations, including those concerning emissions into the air, discharge into waterways, generation, storage, handling, treatment and disposal of waste materials and health and safety.

DBMG's fabrication business often involves working around and with volatile, toxic and hazardous substances and other highly regulated pollutants, substances or wastes, for which the improper characterization, handling or disposal could constitute violations of U.S. federal, state or local laws and regulations and laws of other countries, and result in criminal and civil liabilities. Environmental laws and regulations generally impose limitations and standards for certain pollutants or waste materials and require DBMG to obtain permits and comply with various other requirements. Governmental authorities may seek to impose fines and penalties on DBMG, or revoke or deny issuance or renewal of operating permits for failure to comply with applicable laws and regulations. DBMG is also exposed to potential liability for personal injury or property damage caused by any release, spill, exposure or other accident involving such pollutants, substances or wastes. In connection with the historical operation of our facilities, substances which currently are or might be considered hazardous may have been used or disposed of at some sites in a manner that may require us to make expenditures for remediation.

The environmental, health and safety laws and regulations to which DBMG is subject are constantly changing, and it is impossible to predict the impact of such laws and regulations on DBMG in the future. We cannot ensure that DBMG's operations will continue to comply with future laws and regulations or that these laws and regulations will not cause DBMG to incur significant costs or adopt more costly methods of operation.

Additionally, the adoption and implementation of any new regulations imposing reporting obligations on, or limiting emissions of greenhouse gases from, DBMG's customers' equipment and operations could significantly impact demand for DBMG's services, particularly among its customers for industrial facilities.

Any expenditures in connection with compliance or remediation efforts or significant reductions in demand for DBMG's services as a result of the adoption of environmental proposals could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG is and will likely continue to be involved in litigation that could have a material adverse effect on DBMG's results of operations, cash flows or financial condition.

DBMG has been and may be, from time to time, named as a defendant in legal actions claiming damages in connection with fabrication and other products and services DBMG provides and other matters. These are typically claims that arise in the normal course of business, including employment-related claims and contractual disputes or claims for personal injury or property damage which occur in connection with services performed relating to project or construction sites. Contractual disputes normally involve claims relating to the timely completion of projects or other issues concerning fabrication and other products and services DBMG provides. There can be no assurance that any of DBMG's pending contractual, employment-related personal injury or property damage claims and disputes will not have a material effect on DBMG's future results of operations, cash flows or financial condition.

Work stoppages, union negotiations and other labor problems could adversely affect DBMG's business.

A portion of DBMG's employees are represented by labor unions, and 14.1% of DBMG's employees are covered under collective bargaining agreements that expire in less than one year, at which time they will be renegotiated. A lengthy strike or other work stoppage at any of its facilities could have a material adverse effect on DBMG's business. There is inherent risk that ongoing or future negotiations relating to collective bargaining agreements or union representation may not be favorable to DBMG. From time to time, DBMG also has experienced attempts to unionize its non-union facilities. Such efforts can often disrupt or delay work and present risk of labor unrest.

DBMG's employees work on projects that are inherently dangerous, and a failure to maintain a safe work site could result in significant losses.

DBMG often works on large-scale and complex projects, frequently in geographically remote locations. Such involvement often places DBMG's employees and others near large equipment, dangerous processes or highly regulated materials. If DBMG or other parties fail to implement appropriate safety procedures for which they are responsible or if such procedures fail, DBMG's employees or others may suffer injuries. In addition to being subject to state and federal regulations concerning health and safety, many of DBMG's customers require that it meet certain safety criteria to be eligible to bid on contracts, and some of DBMG's contract fees or profits are subject to satisfying safety criteria. Unsafe work conditions also have the potential of increasing employee turnover, project costs and operating costs. The failure to comply with safety policies, customer contracts or applicable regulations could subject DBMG to losses and liability and could result in a variety of administrative, civil and criminal enforcement measures.

Risks Related to the Life Sciences segment

Pansend's operating results may fluctuate significantly, which makes its future operating results difficult to predict and could cause its operating results to fall below expectations.

Pansend's quarterly and annual operating results may fluctuate significantly, which makes it difficult for Pansend to predict its future operating results. These fluctuations may occur due to a variety of factors, many of which are outside of Pansend's control and may be difficult to predict, including:

- the timing and cost of, and level of investment in, research, development, and commercialization activities relating to Pansend's product and product candidates, which may change from time to time;

- the timing of receipt of approvals or clearances for Pansend's product candidates from regulatory authorities in the U.S. or internationally;
- the timing and status of enrollment for Pansend's clinical trials;
- coverage and reimbursement policies with respect to Pansend's product and product candidates, including the degree to which treatments using its products are covered and receive adequate reimbursement from third-party payors, and potential future drugs or devices that compete with its products;
- the cost of manufacturing Pansend's product, as well as building out its supply chain, which may vary depending on the quantity of
- production and the terms of Pansend's agreements with manufacturers;
- expenditures that Pansend may incur to acquire, develop or commercialize additional product candidates and technologies;
- the level of demand for Pansend's product and any product candidates, if approved or cleared, which may vary significantly over time;
- litigation, including patent, employment, securities class action, stockholder derivative, general commercial, and other lawsuits; and
- the timing and success or failure of nonclinical studies and clinical trials for Pansend's product candidates or competing product candidates, or any other change in the competitive landscape of the life sciences industry, including consolidation among Pansend's competitors or partners.

Pansend operates in a highly competitive market, and may face competition from large, well-established medical technology, device and product manufacturers with significant resources, and may not be able to compete effectively.

The medical technology, medical device, biotechnology, and pharmaceutical industries are characterized by intense and dynamic competition to develop new technologies and proprietary therapies. Pansend faces competition from a number of sources, such as pharmaceutical companies, medical device companies, generic drug companies, biotechnology companies, and academic and research institutions. Pansend may find itself in competition with companies that have competitive advantages over us, such as:

- significantly greater name recognition;
- established relations with healthcare professionals, customers, and third-party payers;
- greater efficacy or better safety profiles;
- established distribution networks;
- additional lines of products, and the ability to offer rebates, higher discounts, or incentives to gain a competitive advantage;
- greater experience in obtaining patents and regulatory approvals for product candidates and other resources;
- greater experience in conducting research and development, manufacturing, clinical trials, obtaining regulatory approval for products, and marketing approved products; and
- greater financial and human resources for product development, sales and marketing, and patent litigation.

Pansend may also face increased competition in the future as new companies enter Pansend's markets and as scientific developments surrounding electro-signaling therapeutics continue to accelerate. While Pansend will seek to expand its technological capabilities to remain competitive, research and development by others may render its technology or product candidates obsolete or noncompetitive or result in treatments or cures superior to any therapy developed by us. In addition, certain of Pansend's product candidates may compete with other dermatological products, including over the counter (OTC) treatments, for a share of some patients' discretionary budgets and for physicians' attention within their clinical practices. Even if a generic product or an OTC product is less effective than Pansend's product candidates, a less effective generic or OTC product may be more quickly adopted by physicians and patients than Pansend's competing product candidates based upon cost or convenience. As a result, Pansend may not be able to compete effectively against current and potential future competitors or their devices and products.

Pansend may rely on third parties for its sales, marketing, manufacturing and/or distribution, and these third parties may not perform satisfactorily.

To be able to commercialize Pansend's planned products, it may elect to internally develop aspects of sales, marketing, large-scale manufacturing, or distribution, or it may elect to utilize third parties with respect to one or more of these items. Pansend's reliance on these third parties may reduce its control over these activities however, reliance on third parties does not relieve Pansend of its responsibility to ensure compliance with all required legal, regulatory, and scientific standards. Any failure of these third parties to perform satisfactorily and in compliance with relevant laws and regulations could lead to delays in the development of Pansend's planned products, including delays in its clinical trials, or failure to obtain regulatory approval for its planned products, or failure to successfully commercialize its planned products or other future products. Some of these events could be the basis for FDA or other regulatory action, including injunction, recall, seizure, or total or partial suspension of production.

Pansend currently has limited product revenue and may never become profitable.

To date, Pansend has generated limited revenue and has historically relied on financing from the sale of equity securities to fund its operations. We expect that Pansend's future financial results will depend primarily on its success in launching, selling, and supporting its therapies and treatments, including R2's Glacial systems or other products based on Pansend's technology. Pansend expects to expend significant resources on hiring of personnel, continued scientific and product research and development, potential product testing and pre-clinical and clinical investigation, intellectual property development and prosecution, marketing and promotion, capital expenditures, working capital, general and administrative expenses, and fees and expenses associated with Pansend's capital raising efforts. Pansend is expected to incur costs and expenses related to consulting costs, laboratory development costs, hiring of scientists, engineers, sales representatives, and other operational personnel, and the continued development of relationships with potential partners. Pansend is incurring significant operating losses, it is expected to continue to incur additional losses for the foreseeable future, and we cannot assure you that it will generate revenue or be profitable in the future. There are no assurances that Pansend's future products will be cleared or approved or become commercially viable or accepted for use. Even with commercially viable applications of Pansend's technology, which may include licensing, Pansend may never recover its research and development expenses. Investment in medical technology is highly speculative because it entails substantial upfront capital expenditures and significant risk that any potential product will fail to demonstrate adequate efficacy or clinical utility. Investors should evaluate an investment in Pansend in light of the uncertainties encountered by developing medical technology companies in a competitive environment. There can be no assurance that Pansend's efforts will be successful or that it will ultimately be able to achieve profitability. Even if Pansend achieves profitability, it may not be able to sustain or increase profitability on a quarterly or annual basis.

Pansend's failure to obtain or maintain necessary FDA clearances and approvals, or to maintain continued clearances, or equivalents thereof in the U.S. and relevant foreign markets, could hurt its ability to distribute and market its products.

In both Pansend's U.S. and foreign markets, Pansend is affected by extensive laws, governmental regulations, administrative determinations, court decisions and similar constraints. Such laws, regulations and other constraints may exist at the federal, state or local levels in the U.S. and at analogous levels of government in foreign jurisdictions. In addition, the formulation, manufacturing, packaging, labeling, distribution, importation, sale and storage of Pansend's products are subject to extensive regulation by various federal agencies, including, but not limited to, the FDA and the FTC, State Attorneys General in the U.S., as well as by various other federal, state, local and international regulatory authorities in the countries in which Pansend's products are manufactured, distributed or sold. If Pansend or its manufacturers fail to comply with those regulations, Pansend could become subject to significant penalties or claims, which could harm its results of operations or its ability to conduct its business. In addition, the adoption of new regulations or changes in the interpretations of existing regulations may result in significant compliance costs or discontinuation of product sales and may impair the marketing of its products, resulting in significant loss of net sales.

Pansend's failure to comply with federal or state regulations, or with regulations in foreign markets that cover its product claims and advertising, including direct claims and advertising by us, may result in enforcement actions and imposition of penalties or otherwise harm the distribution and sale of its products. Each medical device that Pansend wishes to market in the U.S. must first receive either 510(k) clearance or PMA from the FDA unless an exemption applies. Either process can be lengthy and expensive. The FDA's 510(k) clearance process may take from three to twelve months, or longer, and may or may not require human clinical data. The PMA process is much more costly and lengthy. It may take from eleven months to three years, or even longer, and will likely require significant supporting human clinical data. Delays in obtaining regulatory clearance or approval could adversely affect Pansend's revenues and profitability.

R2 has obtained 510(k) clearances for its Glacial Rx system for various uses, including, but not limited to: the removal of benign lesions of the skin; the use of cooling technologies intended for the temporary reduction of pain; swelling; inflammation; hematoma for minor surgical procedures; general dermabrasion; scar revision; acne scar revision; tattoo removal; and minimization of pain, inflammation and thermal injury during laser and dermatological treatments. However, these approvals and clearances may be subject to revocation if post- marketing data demonstrates safety issues or lack of effectiveness. Many medical devices, such as medical lasers, are also regulated by the FDA as "electronic products." In general, manufacturers and marketers of "electronic products" are subject to certain FDA regulatory requirements intended to ensure the radiological safety of the products. These requirements include, but are not limited to, filing certain reports with the FDA about the products and defects/safety issues related to the products as well as complying with radiological performance standards.

The medical device industry is now experiencing greater scrutiny and regulation by federal, state and foreign governmental authorities. Companies in the life sciences industry are subject to more frequent and more intensive reviews and investigations, often involving the marketing, business practices, and product quality management. Such reviews and investigations may result in civil and criminal proceedings; the imposition of substantial fines and penalties; the receipt of warning letters, untitled letters, demands for recalls or the seizure of Pansend's products; the requirement to enter into corporate integrity agreements, stipulated judgments or other administrative remedies, and result in Pansend's incurring substantial unanticipated costs and the diversion of key personnel and management's attention from their regular duties, any of which may have an adverse effect on Pansend's financial condition, results of operations and liquidity, and may result in greater and continuing governmental scrutiny of Pansend's business in the future.

Additionally, federal, state and foreign governments and entities have enacted laws and issued regulations and other standards requiring increased visibility and transparency of Pansend's interactions with healthcare providers. For example, the U.S. Physician Payment Sunshine Act, now known as Open Payments, requires Pansend to report to the Centers for Medicare & Medicaid Services, or CMS, payments and other transfers of value to all U.S. physicians and U.S. teaching hospitals, with the reported information made publicly available on a searchable website. Failure to comply with these legal and regulatory requirements could impact Pansend's business, and it has had and will continue to spend substantial time and financial resources to develop and implement enhanced structures, policies, systems and processes to comply with these legal and regulatory requirements, which may also impact Pansend's business and which could have a material adverse effect on its business, financial condition, and results of operations.

International regulatory approval processes may take more or less time than the FDA clearance or approval process. If Pansend fails to comply with applicable FDA and comparable non-U.S. regulatory requirements, it may not receive regulatory clearances or approvals or may be subject to FDA or comparable non-U.S. enforcement actions. Pansend may be unable to obtain future regulatory clearance or approval in a timely manner, or at all, especially if existing regulations are changed or new regulations are adopted. For example, the FDA clearance or approval process can take longer than anticipated due to requests for additional clinical data and changes in regulatory requirements. A failure or delay in obtaining necessary regulatory clearances or approvals would materially adversely affect Pansend's business, financial condition, and results of operations. Further, more stringent regulatory requirements or safety and quality standards may be issued in the future with an adverse effect on Pansend's business.

Pansend's customers, or physicians and technicians, as the case may be, may misuse certain of its products, and product liability lawsuits and other damages imposed on Pansend may have a material adverse impact on its business.

Pansend faces an inherent risk of product liability as a result of the marketing and sale of its products. For example, Pansend may be sued if its products cause or are perceived to cause injury or are found to be otherwise unsuitable during manufacturing, marketing or sale. Any such product liability claim may include allegations of defects in manufacturing, defects in design, a failure to warn of dangers inherent in the product, negligence, strict liability or breach of warranty. Pansend's products are highly complex, and some are used to treat delicate skin conditions on and near a patient's face. In addition, the clinical testing, manufacturing, marketing and use of certain of Pansend's products and procedures may also expose Pansend to product liability, FDA regulatory and/or legal actions, or other claims. If a physician elects to apply an off-label use and the use leads to injury, Pansend may be involved in costly litigation. In addition, the fact that Pansend trains technicians whom it does not supervise in the use of the Glacial Rx system during patient treatment may expose Pansend to third-party claims if it is accused of providing inadequate training. Pansend may also be subject to claims against it even if the apparent injury is due to the actions of others or the pre-existing health of the patient. For example, Pansend relies on physicians in connection with the use of its products on patients. If these physicians are not properly trained or are negligent, the capabilities and safety features of Pansend's products may be diminished or the patient may suffer critical injury. Pansend may also be subject to claims that are caused by the actions of Pansend's suppliers, such as those who provide it with components and sub-assemblies. A product liability claim or product recall may result in losses that could result in the FDA taking legal or regulatory enforcement action against Pansend and/or Pansend's products including recall, and could have a material adverse effect upon Pansend's business, financial condition and results of operations.

Pansend has limited experience in manufacturing its products in large-scale commercial quantities and may face manufacturing risks that may adversely affect its ability to manufacture products and could reduce its gross margins and negatively affect its business and operating results.

Pansend's success depends, in part, on its ability to manufacture its current and future products in sufficient quantities and on a timely basis to meet demand, while adhering to product quality standards, complying with regulatory quality system requirements and managing manufacturing costs. For example, R2's third-party contract manufacturer has a manufacturing facility located in Sunnyvale, California where they produce, package and warehouse the Glacial Rx system. R2 also relies on a global third-party manufacturer for production of some of the components used in the Glacial Rx System. If R2's facility, or the facilities of its third-party contract manufacturers, suffer damage, or a force majeure event, this could materially impact R2's ability to operate.

Pansend is also subject to other risks relating to its manufacturing capabilities, including:

- quality and reliability of components, sub-assemblies and materials that Pansend sources from third-party suppliers, who are required to meet Pansend's quality specifications, some of whom are Pansend's single-source suppliers for the products they supply;
- failure to secure raw materials, components and materials in a timely manner, in sufficient quantities or on commercially reasonable terms;
- inability to secure raw materials, components and materials of sufficient quality to meet the exacting needs of medical device manufacturing;
- failure to maintain compliance with quality system requirements or pass regulatory quality inspections;
- inability to increase production capacity or volumes to meet demand; and
- inability to design or modify production processes to enable Pansend to produce future products efficiently or implement changes in current products in response to design or regulatory requirements.

These risks could be exacerbated by Pansend's limited experience as an entity with large-scale commercial manufacturing. As demand for Pansend's products increases, Pansend will have to invest additional resources to purchase raw materials and components, sub-assemblies and materials, hire and train employees and enhance Pansend's manufacturing processes. If Pansend fails to increase Pansend's production capacity efficiently to meet demand for its products, it may not be able to fill customer orders on a timely basis, its sales may not increase in line with Pansend's expectations and Pansend's operating margins could fluctuate or decline. It may not be possible for Pansend to manufacture Pansend's products at a cost or in quantities sufficient to make these products commercially viable or to maintain current operating margins, all of which could have a material adverse effect on Pansend's business, financial condition and results of operations.

There is a limited talent pool of experienced professionals in the life sciences industry. If Pansend is not able to retain and recruit personnel with the requisite technical skills, it may be unable to successfully execute Pansend's business strategy.

The specialized nature of Pansend's industry results in an inherent scarcity of experienced personnel in the field. Pansend's future success depends upon Pansend's ability to attract and retain highly skilled personnel, including scientific, technical, commercial, business, regulatory and administrative personnel, necessary to support Pansend's anticipated growth, develop Pansend's business and perform certain contractual obligations. Given the scarcity of professionals with the scientific knowledge that Pansend requires and the competition for qualified personnel among life science businesses, Pansend may not succeed in attracting or retaining the personnel Pansend requires to continue and grow its operations.

Rapidly changing technology in life sciences could make the products Pansend is developing obsolete.

The life sciences industries are characterized by rapid and significant technological changes, frequent new product introductions and enhancements, and evolving industry standards. Pansend's future success will depend on Pansend's ability to continually develop and then improve the products that Pansend designs and to develop and introduce new products that address the evolving needs of Pansend's customers on a timely and cost- effective basis. Pansend also will need to pursue new market opportunities that develop as a result of technological and scientific advances. These new market opportunities may be outside the scope of Pansend's proven expertise or in areas which have unproven market demand. Any new products developed by Pansend may not be accepted in the intended markets. Pansend's inability to gain market acceptance of new products could harm Pansend's future operating results.

If Pansend is unable to effectively protect its intellectual property, it may not be able to operate its business and third parties may be able to use and profit from its technology, both of which would impair Pansend's ability to be competitive.

Pansend's success will be heavily dependent on its ability to obtain and maintain meaningful patent protection for Pansend's technologies and products throughout the world. Patent law relating to the scope of claims in the technology fields in which Pansend will operate is still evolving. The amount of ongoing protection for Pansend's proprietary rights, therefore, is uncertain. Pansend will rely on patents to protect a significant part of Pansend's intellectual property and to enhance Pansend's competitive position. However, Pansend's pending or future patent applications may be denied, and any patent previously issued to Pansend or Pansend's subsidiaries may be challenged, invalidated, held unenforceable or circumvented. In particular, R2 filed a patent application with the U.S. Patent and Trademark Office for a commercial patent that covers the Glacial Rx System, U.S. Patent No. 9522031 through 2029, with additional issued patents or patent applications that, once allowed, will protect coverage through 2042. Furthermore, the patent protections Pansend has been granted may not be broad enough to prevent competitors from producing products similar to Pansend's. In addition, the laws of various foreign countries in which Pansend may compete, such as China, may not protect Pansend's intellectual property to the same extent as the laws of the United States. If Pansend fails to obtain adequate patent protection for Pansend's proprietary technology, Pansend's ability to be commercially competitive will be materially impaired. In the ordinary course of business and as appropriate, Pansend intends to apply for additional patents covering both Pansend's technologies and products, as it deems appropriate. Pansend's existing patents and any future patents it obtains may not be sufficiently broad to prevent others from making use of technologies or developing competing products and technologies. In addition, because patent law is evolving in the life science industry, the patent positions of companies like ours are uncertain. As a result, the validity and enforceability of Pansend's patents cannot be predicted with certainty.

R2's success depends upon patient satisfaction with its procedures.

R2's procedures are elective aesthetic procedures, the cost of which must be borne by the patient and is not covered by or reimbursable through government or private health insurance. In order to generate repeat and referral business, patients must be satisfied with the effectiveness of the procedures conducted using R2's systems. The decision to undergo one of R2's procedures is thus driven by patient demand, which may be influenced by a number of factors, such as:

- the success of R2's sales and marketing programs;
- the extent to which R2's physician customers recommend its procedures to their patients;
- the extent to which R2's procedures satisfy patient expectations;
- R2's ability to properly train its physician customers in the use of its systems so that their patients do not experience excessive discomfort during treatment or adverse side effects;
- the cost, safety, and effectiveness of R2's systems versus other aesthetic treatments;
- consumer sentiment about the benefits and risks of aesthetic procedures generally and R2's systems in particular;
- the success of any direct-to-consumer marketing efforts R2 may initiate; and
- general consumer confidence, which may be impacted by economic and political conditions outside of R2's control.

R2’s financial performance will be negatively impacted in the event it cannot generate significant patient demand for procedures performed with its systems.

If third parties make claims of intellectual property infringement against Pansend, or otherwise seek to establish their intellectual property rights equal or superior to Pansend’s, it may have to spend time and money in response and potentially discontinue certain of Pansend’s operations.

While Pansend currently does not believe it to be the case, third parties may claim that Pansend is employing their proprietary technology without authorization or that Pansend is infringing on their patents. If such claims were made, Pansend could incur substantial costs coupled with diversion of Pansend’s management and key technical personnel in defending against these claims. Furthermore, parties making claims against Pansend may be able to obtain injunctive or other equitable relief which could effectively halt Pansend’s ability to further develop, commercialize and sell products. In the event of a successful claim of infringement, courts may order Pansend to pay damages and obtain one or more licenses from third parties. Pansend may not be able to obtain these licenses at a reasonable cost, if at all. Defense of any lawsuit or failure to obtain any of these licenses could prevent Pansend from commercializing available products and have a material negative effect on Pansend’s business.

Therapies targeted by Scaled Cell represent a novel approach toward treatment of certain diseases. Increased regulatory scrutiny or negative perception of certain therapies or treatments could adversely affect our business.

Scaled Cell is currently targeting chimeric antigen receptor (CAR)-T cell therapy which uses immune cells called T cells that are genetically altered in a lab to enable them in locating and destroying cancer cells more effectively. Cellular therapies like CAR-T remain novel, have caused severe side effects, including death, and may not gain widespread acceptance by the public or the medical community. Additionally, adverse events in clinical trials of Scaled Cell candidates or in other companies’ clinical trials could result in a decrease in demand for products developed by Scaled Cell. Advancing CAR-T therapy creates other challenges, including those related to the manufacture, sourcing, licensing, education, and regulation of such therapies. Additionally, responses by the FDA or other federal and state agencies to negative public perception or ethical concerns could result in increased regulation or legislation of CAR-T therapies.

Patients receiving CAR-T therapies may experiences severe adverse events, which may affect clinical development, regulatory approval, and public perception.

Certain product candidates of Scaled Cell may have serious and potentially fatal consequences. Developments of similarly designed therapies have experienced events related to neurotoxicity and cytokine release syndrome (CRS). There is a possibility that Scaled Cell could have similarly life threatening or serious adverse side effects.

Risks related to the Spectrum segment

Our broadcasting business operates in highly competitive markets and our ability to maintain market share and generate operating revenues depends on how effectively we compete with existing and new competition.

Spectrum's broadcast stations compete for audiences and advertising revenue with other broadcast stations as well as with other media such as the Internet and radio. Broadcasting also faces competition from (i) local free over-the-air broadcast television and radio stations; (ii) telecommunication companies; (iii) cable and satellite system operators and cable networks; (iv) print media providers such as newspapers, direct mail and periodicals; (v) internet search engines, internet service providers, websites, and mobile applications; (vi) viewers moving to programming alternatives and alternate media content providers, a process known as "cord cutting"; and (vii) other emerging technologies including mobile television. Some of Broadcasting's current and potential competitors have greater financial and other resources than Broadcasting does and so may be better placed to extend audience reach and expand programming. Many of Broadcasting’s competitors possess greater access to capital, and its financial resources may be relatively limited when contrasted with those of such competitors. If Broadcasting needs to obtain additional funding, Broadcasting may be unable to raise such capital or, if Broadcasting is able to obtain capital it may be on unfavorable terms. If Broadcasting is unable to obtain additional funding as and when needed, it could be forced to delay its development, marketing and expansion efforts and, if it continues to experience losses, potentially cease operations.

In addition, broadcast consumers’ desire for control over their viewing experience and the methods by which they consume content continue to evolve rapidly. Consumers are also increasingly using services with time-shifting or advertisement-skipping capability, or with reduced or no advertising at all. These shifts in consumer behavior create challenges with respect to maintaining predictable broadcasting revenue, and substantial adoption of alternative technologies could negatively affect our overall broadcasting business. Also, a slowing adoption of the ATSC 3.0 standards, as well as potential barriers related to an industry shift to next-generation telecommunications technologies, such as a fifth-generation mobile network ("5G") and datacasting may lead to an unpredictable landscape for the broadcasting industry.

Cable companies and others have developed national advertising networks in recent years that increase the competition for national advertising. Over the past decade, cable television programming services, other emerging video distribution platforms and the Internet have captured increasing market share. Cable providers, direct broadcast satellite companies and telecommunication companies are developing new technology that allows them to transmit more channels on their existing equipment to highly targeted audiences, reducing the cost of creating channels and potentially leading to the division of the television industry into ever more specialized niche markets. The decreased cost of creating channels may also encourage new competitors to enter Broadcasting's markets and compete with us for advertising revenue. In addition, technologies that allow viewers to digitally record, store and play back television programming may decrease viewership of commercials as recorded by media measurement services and, as a result, lower Spectrum's advertising revenues. Furthermore, technological advancements and the resulting increase in programming alternatives, such as cable television, direct broadcast satellite systems, pay-per-view, home video and entertainment systems, video-on-demand, mobile video and the Internet have also created new types of competition to television broadcast stations and will increase competition for household audiences and advertisers. We cannot provide any assurances that we will remain competitive with these developing technologies and our inability to successfully respond to new and growing sources of competition in the broadcasting industry could have an adverse effect on Broadcasting's business, financial condition and results of operations.

The FCC could implement regulations or the U.S. Congress could adopt legislation that might have a significant impact on the operations of the stations we own and the stations we provide services to or the television broadcasting industry as a whole.

The FCC regulates Broadcasting's broadcasting business. We must often times obtain the FCC's approval to obtain, renew, assign or modify, a license, purchase a new station, sell an existing station or transfer the control of one of Broadcasting's subsidiaries that hold a license. Broadcasting's FCC licenses are critical to Broadcasting's operations; we cannot operate without them. We cannot be certain that the FCC will renew these licenses in the future or approve new acquisitions in a timely manner, if at all. If licenses are not renewed or acquisitions are not approved, we may lose revenue that we otherwise could have earned and this would have an adverse effect on Broadcasting's business, financial condition and results of operations.

In addition, Congress and the FCC may, in the future, adopt new laws, regulations and policies regarding a wide variety of matters (including, but not limited to, technological changes in spectrum assigned to particular services) that could, directly or indirectly, materially and adversely affect the operation and ownership of Broadcasting's broadcast properties.

Broadcasting Licenses are issued by, and subject to the jurisdiction of the FCC, pursuant to the Communications Act of 1934, as amended (the "Communications Act"). The Communications Act empowers the FCC, among other actions, to issue, renew, revoke and modify broadcasting licenses; determine stations' frequencies, locations and operating power; regulate some of the equipment used by stations; adopt other regulations to carry out the provisions of the Communications Act and other laws, including requirements affecting the content of broadcasts; and to impose penalties for violation of its regulations, including monetary forfeitures, short-term renewal of licenses and license revocation or denial of license renewals. Any of these actions imposed by the FCC could result in the loss of station licenses or assets.

License Renewals. Broadcast television licenses are typically granted for standard terms of eight years. Most licenses for commercial and noncommercial TV broadcast stations, Class A TV broadcast stations, television translators and LPTV broadcast stations have expirations between 2028 and 2031; however, the Communications Act requires the FCC to renew a broadcast license if the FCC finds that the station has served the public interest, convenience and necessity and, with respect to the station, there have been no serious violations by the licensee of either the Communications Act or the FCC's rules and regulations and there have been no other violations by the licensee of the Communications Act or the FCC's rules and regulations that, taken together, constitute a pattern of abuse. The Company had 17 pending renewal applications at the end of 2023, and will have no applications due in 2024. Third parties may oppose license renewals. A station remains authorized to operate while its license renewal application is pending.

License Assignments. The Communications Act requires prior FCC approval for the assignment or transfer of control of an FCC licensee. Third parties may oppose the Company's applications to assign, transfer or acquire broadcast licenses.

Full Power and Class A Station Regulations. The Communications Act and FCC rules and regulations limit the ability of individuals and entities to have certain official positions or ownership interests, known as "attributable" interests, above specific levels in full power broadcast stations as well as in other specified mass media entities. Many of these limits do not apply to Class A stations, television translators and LPTV authorizations. In seeking FCC approval for the acquisition of a broadcast television station license, the acquiring person or entity must demonstrate that the acquisition complies with applicable FCC ownership rules or that a waiver of the rules is in the public interest. Additionally, while the Communications Act and FCC regulations have been modified to no longer strictly prohibit ownership of a broadcast station license by any corporation with more than 25 percent of its stock owned or voted by non-U.S. persons, their representatives or any other corporation organized under the laws of a foreign country, foreign ownership above such threshold is determined by the FCC on a case-by-case basis, which analysis is subject to the specific circumstances of each such request. The FCC has also adopted regulations concerning children's television programming, commercial limits, local issues and programming, political files, sponsorship identification, equal employment opportunity requirements and other requirements for full power and Class A broadcast television stations. The FCC's rules require operational full-power and Class A stations to file quarterly reports demonstrating compliance with these regulations.

Low Power Television and TV Translator Authorizations. LPTV stations and TV Translators have "secondary spectrum priority" to full-service television stations. The secondary status of these authorizations prohibits LPTV and TV Translator stations from causing interference to the reception of existing or future full-service television stations and requires them to accept interference from existing or future full-service television stations and other primary licensees. LPTV and TV Translator licensees are subject to fewer regulatory obligations than full-power and Class A licensees, and there no limit on the number of LPTV stations that may be owned by any one entity.

Obscenity and Indecency Regulations. Federal law and FCC regulations prohibit the broadcast of obscene material on television at any time and the broadcast of indecent material between the hours of 6:00 a.m. and 10:00 p.m. local time. The FCC investigates complaints of broadcasts of prohibited obscene or indecent material and can assess fines of up to $0.35 million per incident for violation of the prohibition against obscene or indecent broadcasts and up to $3.3 million for any continuing violation based on any single act or failure to act. The FCC may also revoke or refuse to renew a broadcast station license based on a serious violation of the agency's obscenity and indecency rules.

Continued uncertain financial and economic conditions may have an adverse impact on our business, results of operations or financial condition.

Financial and economic conditions continue to be uncertain over the longer term and the continuation or worsening of such conditions could reduce consumer confidence and have an adverse effect on our business, results of operations and/or financial condition. If consumer confidence were to decline, this decline could negatively affect our advertising customers' businesses and their advertising budgets. In addition, volatile economic conditions could have a negative impact on our industry or the industries of our customers who advertise on our stations, resulting in reduced advertising sales. Furthermore, it may be possible that actions taken by any governmental or regulatory body for the purpose of stabilizing the economy or financial markets will not achieve their intended effect. In addition to any negative direct consequences to our business or results of operations arising from these financial and economic developments, some of these actions may adversely affect financial institutions, capital providers, advertisers or other consumers on whom we rely, including for access to future capital or financing arrangements necessary to support our business. Our inability to obtain financing in amounts and at times necessary could make it more difficult or impossible to meet our obligations or otherwise take actions in our best interests.

Certain stations are also benefiting from our retransmission consent agreements with MVPDs, and we cannot predict the outcome of potential regulatory changes to the retransmission consent regime.

Certain stations are also benefiting, although in very few instances on a small number of stations, on retransmission consent agreements. Our current retransmission consent agreements expire at various times over the next several years. No assurances can be provided that we will be able to renegotiate all of such agreements on favorable terms, on a timely basis, or at all. The failure to renegotiate such agreements could have no material adverse effect on our business and results of operations.

ITEM 1B. UNRESOLVED STAFF COMMENTS

None.

ITEM 1C. CYBERSECURITY

Cybersecurity Risk Management, Strategy, and Governance

Cybersecurity is a critical component of our operational integrity and strategic planning. Recognizing the evolving nature of cyber threats, we are committed to implementing robust cybersecurity measures to safeguard our digital assets, protect stakeholder interests, and ensure continuity of our operations.

Cybersecurity Risk Management Processes

Our approach to managing cybersecurity risks is proactive and comprehensive. We employ a range of methods to assess, identify and manage the risk of potential cybersecurity threats, including regular security audits, utilization of a third party service provider for security measures over our virtual environment, threat intelligence monitoring, and vulnerability assessments. Our risk management framework is designed to mitigate potential cyber risks through a blend of technological safeguards, employee training programs, and incident response protocols.

Cybersecurity Strategy and Investment

Our cybersecurity strategy is integral to our broader risk management policy. We invest in state-of-the-art cybersecurity technologies and infrastructure to enhance our defensive capabilities and have a dedicated system of internal controls in place to prevent, monitor and remediate cyber risks including any risks from utilization of third party service providers. Additionally, we allocate resources for ongoing staff training and awareness programs to foster a culture of cybersecurity mindfulness across the organization and maintain dedicated channels of communication with our third party service provider monitoring our virtual environment to facilitate timely cyber incident identification and remediation. Our strategic investments in cybersecurity are tailored to address the unique challenges and risks pertinent to our industry and operational scope.

Governance and Oversight

The governance of our cybersecurity efforts is overseen by the Audit Committee, which includes individuals with experience in technology and cybersecurity. The board regularly reviews and guides our cybersecurity policies and practices. Management plays a critical role in implementing these policies and in the day-to-day management of cybersecurity risks. They are empowered with the maintenance, communication and enforcement of cybersecurity policies and employ proactive measures to improve cyber security through review of various third party cyber tools for potential implementation. Our Head of IT and CFO are responsible for overseeing the implementation of cybersecurity strategies and ensuring compliance with regulatory standards. In addition to our in-house expertise, the Company employs independent external auditors and an outsourced internal audit team, who regularly test and asses our cybersecurity controls. Any cyber incidents that occur are escalated to the CFO to facilitate resolution. Any incident determined to be material is discussed with the Audit Committee and communicated to the company's internal and external auditors as well as the company's third party virtual environment service provider, when relevant).

Material Effects of Cybersecurity Risks

Our business strategy, results of operation and financial condition have been not been materially affected by risks from cybersecurity threats, nor did we experience any significant cybersecurity incidents in 2023. However, we cannot provide assurances that they will not be materially affected by such risks or material incidents in the future. We continually assess the material effects of potential cybersecurity risks on our financial and operational performance and maintain comprehensive insurance coverage to mitigate financial losses from potential cybersecurity incidents.

Compliance and Regulatory Considerations

Our cybersecurity practices are in alignment with industry standards and regulatory requirements. We conduct regular reviews to ensure compliance with evolving cybersecurity laws and regulations. There have been no legal or regulatory proceedings related to cybersecurity against the company in the reported period. We intend to further enhance our cybersecurity measures in response to the dynamic cyber threat landscape. This includes investing in advanced security technologies, refining our risk assessment methodologies, and continuing our commitment to staff training and development in cybersecurity awareness and best practices.

ITEM 2. PROPERTIES

Our corporate headquarters are located in New York, New York. We own select fabrication facilities, warehouses, administrative and sales offices and lease administrative, technical and sales office space in various locations in the countries in which we operate. DBMG is headquartered in Phoenix, Arizona; Spectrum is headquartered in New York, New York; R2 Technologies is headquartered in Dublin, California. We believe that our present administrative, technical and sales office facilities are adequate for our anticipated operations and that similar space can be obtained readily as needed.

ITEM 3. LEGAL PROCEEDINGS

The information regarding legal proceedings as set forth in Note 13. Commitments and Contingencies in the Notes to Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference.

ITEM 4. MINE SAFETY DISCLOSURES

Not applicable.

PART II

ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY, RELATED STOCKHOLDER MATTERS AND ISSUER PURCHASES OF EQUITY SECURITIES

Common Stock

INNOVATE common stock trades on the NYSE under the ticker symbol "VATE".

Holders of Common Stock

As of February 29, 2024, INNOVATE had approximately 48 holders of record of its common stock. This number does not include stockholders for whom shares were held in "nominee" or "street" name.

Dividends

INNOVATE paid no dividends on its common stock in 2023 or 2022, and our board of directors has no current intention of paying any dividends on our common stock in the near future. The payment of dividends on common stock, if any, in the future is within the discretion of our board of directors and will depend on our earnings, our capital requirements, financial condition, the ability to comply with the requirements of the law and agreements governing our and our subsidiaries indebtedness. The secured indentures governing certain of our debt instruments contain covenants that, among other things, limit or restrict our ability to make certain restricted payments, including the payment of cash dividends with respect to our common stock. The DBMG Facility contains similar covenants applicable to DBMG. Refer to Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations - Liquidity and Capital Resources and Note 11. Debt Obligations to our Consolidated Financial Statements included in this Annual Report on Form 10-K for more detail concerning our Secured Notes and other financing arrangements. Moreover, dividends may be restricted by other arrangements entered into in the future by us.

For details on preferred share dividends refer to Note 16. Temporary Equity and Equity in the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference.

Issuer Purchases of Equity Securities

Equity Award Share Withholding

Shares of common stock withheld as payment of withholding taxes in connection with the vesting or exercise of equity awards are also treated as common stock repurchases. Those withheld shares of common stock are not considered common stock repurchases under an authorized common stock repurchase plan. During the fourth quarter of 2023, there were no shares withheld for taxes. During the year ended December 31, 2023, we withheld 59,732 shares at an average price per share of $2.94 as payment of withholding taxes in connection with the vesting of employee equity awards.

Information regarding our equity compensation plans will be set forth in our 2024 Proxy Statement and is incorporated herein by reference.

ITEM 6. [RESERVED]

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

You should read the following discussion and analysis of our financial condition and results of operations together with our consolidated annual financial statements and the notes thereto, each of which are contained in Item 8. entitled "Financial Statements and Supplementary Data," and other financial information included herein. Some of the information contained in this discussion and analysis includes forward-looking statements that involve risks and uncertainties. You should review the "Risk Factors" section as well as the section below entitled "Special Note Regarding Forward-Looking Statements" for a discussion of important factors that could cause actual results to differ materially from the results described in or implied by the forward-looking statements contained in the following discussion and analysis.

Unless the context otherwise requires, in this Annual Report on Form 10-K, "INNOVATE" means INNOVATE Corp. (formerly known as HC2 Holdings, Inc.) and the "Company," "we" and "our" mean INNOVATE together with its consolidated subsidiaries. "U.S. GAAP" means accounting principles accepted in the United States of America.

Our Business and Our Operations

We are a diversified holding company with principal operations conducted through three operating platforms or reportable segments: Infrastructure ("DBMG"), Life Sciences ("Pansend"), and Spectrum, plus our Other segment, which includes businesses that do not meet the separately reportable segment thresholds.

For additional information on our business, refer to Note 1. Organization and Business to the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference.

Cyclical Patterns

Our segments' operations can be highly cyclical. Our volume of business in our Infrastructure segment may be adversely affected by declines or delays in projects, which may vary by geographic region. Project schedules, particularly in connection with large, complex, and longer-term projects can also create fluctuations in the services provided, which may adversely affect us in any given period.

For example, in connection with larger, more complicated projects, the timing of obtaining permits and other approvals may be delayed, and we may need to maintain a portion of our workforce and equipment in an underutilized capacity to ensure we are strategically positioned to deliver on such projects when they move forward.

Examples of other items that may cause our results or demand for our services to fluctuate materially from quarter to quarter include: weather or project site conditions; financial condition of our customers and their access to capital; margins of projects performed during any particular period; rising interest rates and inflation; and economic, political and market conditions on a regional, national or global scale.

Accordingly, our operating results in any particular period may not be indicative of the results that can be expected for any other period.

Recent Developments

On July 23, 2023, we announced the unexpected passing of Wayne Barr, our President, Chief Executive Officer and Director. Mr. Barr had served as a director of INNOVATE since January 2014 and as CEO since November 2020. He previously served as Lead Director during March 2020 and as Interim CEO from June 2020 until November 2020 when he was appointed as the Company's permanent President and CEO. During his tenure as a director of INNOVATE, he has also served as Chair and/or as a member of several of the Board committees and as a director and/or officer of certain INNOVATE subsidiaries. Following Mr. Barr's death, on July 25, 2023, Paul K. Voigt was named Interim Chief Executive Officer of the Company. Mr. Voigt has served as Senior Managing Director of Investments at Lancer Capital since 2019. From 2014 to 2018, Mr. Voigt served as Senior Managing Director of Investments of the Company and was involved with sourcing deals and capital raising for the Company.

On September 21, 2023, INNOVATE entered into a separation and release agreement with Suzi Herbst, our Chief Operating Officer. Pursuant to the agreement, Ms. Herbst's employment with the Company ceased on October 20, 2023 and the Company is paying Ms. Herbst severance payments and benefits.

We continually evaluate strategic and business alternatives within our operating segments, which may include the following: operating, growing or acquiring additional assets or businesses related to current or historical operations; or winding down or selling our existing operations. In the longer-term, we may evaluate opportunities to acquire assets or businesses unrelated to our current or historical operations. In the event we were to enter into a strategic transaction to sell any of our existing operations, our intention is to use available proceeds from such transaction to address our capital structure at Non-Operating Corporate and Spectrum.

In 2023, and subsequent to year end, as part of our strategic process, we engaged in several transactions that had or will have an effect on the results of operations and financial condition of our business and individual segments.

Rights Offering and Private Placement

On February 23, 2024, the Company's Board of Directors approved a plan to proceed with a $19.0 million rights offering for its common stock and fixed March 6, 2024 as the record date for holders of common stock entitled to participate in the rights offering. On March 5, 2024, the Company set the subscription price at which the rights would be exercisable at $0.70 per share and entered into an investment agreement (the "Investment Agreement") with Lancer Capital ("Lancer Capital"), an entity controlled by Avram A. Glazer, the Chairman of the Board and a beneficial owner of 29.1% of our common stock, pursuant to which the rights offering will be backstopped by Lancer Capital. Because the rules of the New York Stock Exchange ("NYSE") prohibit the issuance to Lancer Capital of more than 1% of our common stock outstanding before the issuance unless stockholder approval of such issuance is obtained, in lieu of purchasing common stock under the back-stop arrangement, Lancer Capital will purchase up to $19.0 million of Series C Non-Voting Participating Convertible Preferred Stock, par value $0.001 per share ("Series C Preferred Stock") to be newly authorized by the Company. The Series C Preferred Stock is intended to be the economic equivalent of common stock, participating on an as-converted basis in all dividends, distributions, merger consideration and all other consideration receivable by holders of common stock, and a means through which the back-stop arrangement can be effected prior to the completion of the stockholder vote and the satisfaction of any other regulatory requirements. Pursuant to the Investment Agreement, and as a result of limitations on the amount that can be raised under the Company's effective shelf registration statement on Form S-3, Lancer Capital will also purchase an additional $16.0 million of Series C Preferred Stock in a private placement transaction to close concurrently with the settlement of the rights offering. Under the rules of the NYSE, because the shares Lancer Capital will purchase in the concurrent private placement are greater than 20% of our common stock outstanding before the issuance of the Series C Preferred, those shares of Series C Preferred Stock may not be converted unless stockholder approval of such issuance is obtained. The Investment Agreement provides that, in the event that for any reason the rights offering is not settled by March 28, 2024, then Lancer Capital will purchase $25 million of Series C Preferred Stock. We refer to this arrangement as the "equity advance." Upon the closing of the rights offering, to the extent that Lancer Capital would have, based on the number of shares of common stock actually sold upon exercise of the rights, purchased less than $25 million of Series C Preferred Stock under the backstop commitment and the concurrent private placement, the Company will redeem those excess shares of Series C Preferred Stock purchased by Lancer Capital under the equity advance at the redemption price of $1,000 per share from the proceeds of the rights offering.

The Series C Preferred Stock terms are set forth in a form of certificate of designations attached as Exhibit A to the Investment Agreement and include a liquidation preference junior to the Company's existing preferred stock and equal to the Company's common stock (other than a preference of $0.001 per share of Series C Preferred Stock that will be paid to the holders of thereof before any payment or distribution is made to the holders of the common stock). The certificate of designations for the Series C Preferred Stock will be filed with the Secretary of State of the State of Delaware on the earlier of the closing of the equity advance or the settlement of the rights offering.

In connection with the Investment Agreement, on March 5, 2024, the Company and Lancer Capital entered into a registration rights agreement (the "Registration Rights Agreement") pursuant to which the Company granted Lancer Capital certain customary shelf demand and piggyback registration rights with respect to the common stock issuable upon conversion of the Series C Preferred Stock purchased under the Investment Agreement.

The foregoing summaries of the Investment Agreement and the Registration Rights Agreement are not complete and is subject to, qualified in their entirety by, and should be read in conjunction with, the full text of the Investment Agreement and the Registration Rights Agreement, which are filed as Exhibits 10.70 and 10.71 to this Annual Report on Form 10-K and incorporated herein by reference.

Assuming that the Company proceeds with the rights offering and that shares of Series C Preferred Stock are issued to Lancer Capital pursuant to the Investment Agreement, the Company intends to seek stockholder approval for the conversion of the Series C Preferred Stock into shares of our common stock at the Company's 2024 annual stockholders meeting.

The rights offering will be made pursuant to the Company's effective shelf registration statement on Form S-3, filed with the SEC on September 29, 2023 and declared effective on October 6, 2023, and a prospectus supplement containing the detailed terms of the rights offering to be filed with the SEC prior to the commencement of the rights offering. The foregoing information regarding the rights offering is not complete and is subject to change. The foregoing information regarding the rights offering shall not constitute an offer to sell or a solicitation of an offer to buy any securities, nor shall there be any offer, solicitation or sale of the securities in any state or jurisdiction in which such offer, solicitation or sale would be unlawful under the securities laws of such state or jurisdiction. The rights offering will be made only by means of a prospectus and a related prospectus supplement. Copies of the prospectus and related prospectus supplement, when they become available, will be distributed to all eligible stockholders as of the rights offering record date and may also be obtained free of charge at the website maintained by the SEC at www.sec.gov or by contacting the information agent for the rights offering.

The Series C Preferred Stock to be issued to Lancer Capital pursuant to the Investment Agreement will not be registered under the Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

Dispositions and Acquisition of Investments

Life Sciences

Triple Ring Partial Disposition and Scaled Cell Acquisition

On November 30, 2023, the Company sold 546,709 shares of its common stock of Triple Ring and 804,375 shares of its preferred stock of Triple Ring and exchanged 255,333 of Triple Ring common stock for 240,613 shares of Scaled Cell (valued at $0.9 million). As a part of this transaction, the Company received $5.0 million in cash proceeds and recognized a loss of $0.2 million on the sale of the investment, which is reflected in Other income (expense), net, in the Consolidated Statement of Operations for the year ended December 31, 2023. As of December 31, 2023, the Company holds 240,613 shares of Scaled Cell, representing a 20.1% interest.

Subsequent to the sale, the Company still holds 229,488 shares of common stock of Triple Ring, reflecting a 7.2% interest (1.9% on a fully diluted basis), and accounts for Triple Ring under the measurement alternative method as of December 31, 2023. As of December 31, 2022 and prior to the sale in November 2023, the Company held a 25.8% interest in Triple Ring.

Other

Sale of Remaining 19% Interest in HMN

On March 6, 2023, the Company, through New Saxon 2019 Limited ("New Saxon"), an indirect subsidiary of GMH, closed on the sale of its remaining 19% interest in HMN to subsidiaries and an affiliate of Hengtong Optic-Electric Co Ltd. The sale was consummated pursuant to the terms of a supplemental agreement entered into by the parties in June 2022. New Saxon received gross proceeds of $54.2 million, and interest income of $0.5 million, of which $4.4 million was withheld for a foreign tax payment. During the year ended December 31, 2023, $15.9 million was paid to GMH's non-controlling interest holders and redeemable non-controlling interest holders pursuant to the partnership agreement. New Saxon recognized a gain on sale of $12.2 million, which is reflected in Other income (expense), net in the Consolidated Statements of Operations for the year ended December 31, 2023.

Debt Obligations and Financing

In 2023 and 2022, we refinanced several of our loans and credit facilities and obtained new capital financing at the corporate and subsidiary level. This financing helped us provide needed capital for our operations and the operations of our subsidiaries.

Infrastructure

On December 12, 2023, DBMG and UMB entered into an amendment to the agreement that extended the maturity date of the Revolving Line from May 31, 2024 to August 15, 2025, increased the interest rate spread for the Revolving Line by 0.35% across all tiers, and established an interest rate floor of 4.25%. The effective interest rate on the Revolving Line was 8.33% and 6.88% as of December 31, 2023 and 2022, respectively. Interest is paid monthly. The Revolving Line also includes a commitment fee equal to 0.25% per annum times the average daily unused availability under the line.

DBMG and Banker Steel, jointly and severally, have a subordinated 4.0% note payable to Banker Steel's former owner, in which Donald Banker's family trust has a 25% interest, and jointly and severally also had a subordinated 8.0% note payable to Donald Banker's family trust. During the year ended December 31, 2023, DBMG made $12.1 million in scheduled repayments of the principal on these notes and made accelerated repayments of $16.6 million in full settlement of the 8.0% subordinated note. Banker Steel also previously had a subordinated 11.0% note payable to Donald Banker of $6.3 million, which was redeemed in full by DBMG on April 4, 2022. As of December 31, 2023, the 4.0% note payable had a remaining balance of $5.0 million.

Life Sciences

During the year ended December 31, 2022, R2 Technologies entered into various note purchase agreements with Lancer Capital, an entity controlled by Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, for an aggregate $10.8 million in notes at a 18% per annum interest rate as of December 31, 2022. During 2023, R2 closed on an additional $6.6 million of notes, including $1.3 million of unpaid accrued interest which was capitalized into the new principal balance, increasing the aggregate outstanding principal to $17.4 million as of December 31, 2023. The per annum interest rate on the outstanding principal balance also increased to 20%. In addition, after various amendments throughout 2023, R2 entered into an amendment with Lancer Capital on November 15, 2023 to extend the maturity date of all outstanding prior existing notes to the earlier of January 31, 2024 or within five business days of the date on which R2 receives an aggregate $20.0 million from the consummation of a debt or equity financing.

Subsequent to year end, the notes expired on January 31, 2024. Effective January 31, 2024, R2 and Lancer Capital simultaneously issued a new 20% note with an aggregate original principal amount of $20.0 million, which is comprised of the prior outstanding principal amounts and unpaid accrued interest of $2.6 million which was capitalized into the new principal balance, with future interest payable monthly in arrears, in cash or, if not paid in cash, accrued and unpaid interest will be capitalized monthly into the principal balance. The maturity date of the new note is April 30, 2024 or within five business days of the date on which R2 Technologies receives an aggregate $20.0 million from the consummation of a debt or equity financing or has a change in control, as defined in the agreement, with an optional prepayment of the entire then-outstanding and unpaid principal and accrued interest upon five-days written notice to Lancer Capital. The new note also includes an exit fee payable upon the earliest of the maturity date, the acceleration date of the principal amount of the note, for any reason as defined in the agreement, or the date upon which any prepayment is made. The exit fee shall be equal to 10.20% if payment is made anytime from February 1, 2024 through February 29, 2024, 10.37% if payment is made anytime from March 1, 2024 through March 31, 2024, and 10.54% if payment is made anytime from April 1, 2024 through April 30, 2024. Refer to Note 11. Debt Obligations in the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference for additional information on R2 Technologies' debt obligations.

Spectrum

On December 30, 2022, Broadcasting entered into a Seventh Omnibus Amendment to Secured Notes which, among other things, extended the maturity date of $52.2 million of its Senior Secured Notes, due December 30, 2022 to May 31, 2024. Interest is capitalized and payable upon maturity of the principal. The $52.2 million of Senior Secured Notes consisted of $19.3 million of 8.5% Senior Secured Notes and $32.9 million of 10.5% Senior Secured Notes. The other terms of the $19.3 million 8.5% Senior Notes remained the same. At the time of the extension, Broadcasting had accrued interest and other fees of $6.9 million. The interest rate on the $32.9 million 10.5% Senior Notes was increased to 11.45% and cumulative accrued interest and exit fees of $17.5 million were capitalized into the principal balance with both note extensions accounted for as debt modification events. All other terms were essentially the same. Total outstanding principal after the refinancing was $69.7 million, and $6.9 million of accrued interest and fees remain accrued, with total exit fees of $7.6 million which were recorded as original issue discount with a corresponding liability reflected in Other Liabilities in the Consolidated Balance Sheet. Interest is capitalized and payable upon maturity of the principal.

Concurrently therewith and as part of the consideration for extending the 10.5% Senior Notes in December 2022, Broadcasting amended warrants to purchase 145,825 shares of common stock of HC2 Broadcasting Holdings, Inc. common stock held by the lenders of the 10.5% Senior Notes by extending the time to exercise such to the second half of 2026 and reducing the exercise price per share (i) from $140.00 to $0.01 in the case of the certain of the warrants and (ii) from $130.00 to $0.01 in the case of the remaining warrants. The warrants are exercisable at any time. The change in the fair value of the warrants was recorded as original issue discount with a corresponding impact reflected in Non-controlling interest of $3.1 million.

On August 8, 2023, Broadcasting entered into an Eighth Amendment to Secured Notes with its lenders which extended the maturity date of its Senior Secured Notes aggregate principal amount of $69.7 million, from May 31, 2024 to August 15, 2024. In exchange, Broadcasting incurred an additional exit fee of $1.1 million which was recorded as original issue discount with a corresponding liability reflected in Other Liabilities in the Consolidated Balance Sheet.

On November 9, 2023, Broadcasting entered into a Ninth Amendment to its Secured Notes with its lenders which extended the maturity date of its Senior Secured Notes aggregate principal amount of $69.7 million, from August 15, 2024 to August 15, 2025. In exchange, Broadcasting will pay additional exit fees of $7.2 million which are payable on the earlier of maturity or repayment of the principal. Interest is also capitalized and payable upon maturity of the principal. In addition, the time to exercise the related warrants was extended to August 2027. As of December 31, 2023, the effective interest rates on the notes, as amended, ranged from 20.6% to 24.0% per annum.

In addition, INNOVATE Corp. entered into a related side letter with the institutional investors, whereby INNOVATE agreed to utilize proceeds from the sale of certain of its existing operations, as allowable under the Company's current agreements and indentures and after all other required payments have been made, for repayment of a portion of Broadcasting's Senior Secured Notes. Assuming there are sufficient proceeds remaining after such repayment, an additional $1.0 million exit fee is payable if repayment occurs by November 9, 2024, or $2.0 million if repayment occurs after that date. In exchange for the additional exit fee, the institutional investors will return their equity interests in HC2 Broadcasting Holdings, Inc. and equity interests in DTV America.

The Company accounted for the transactions related to the Eighth Amendment, Ninth Amendment and the side letter as debt modification events under US GAAP as the present value of cash flows under the amended terms of Broadcasting's Senior Secured Notes was less than 10% different from the present value of cash flows under the original terms of the notes. As a result of the modifications, and as of December 31, 2023, the Company has total capitalized estimated exit fees of $15.9 million, which are reflected in Other Liabilities in the Consolidated Balance Sheet.

Non-Operating Corporate

On April 25, 2023, INNOVATE extended the maturity date of its Revolving Credit Agreement with MSD PCOF Partners IX, LLC (the "Revolving Line of Credit") from February 23, 2024 to March 16, 2025, changed the interest benchmark rates from LIBOR-based to SOFR-based rates, and lowered the amount of net cash proceeds from certain asset sales in excess of which a prepayment is required from $50.0 million to $10.0 million. In March 2023, the Company paid down $15.0 million outstanding under the Revolving Line of Credit. On May 8, 2023, INNOVATE drew an additional $8.0 million under the Revolving Line of Credit, and on July 31, 2023, INNOVATE drew an additional $7.0 million under the Revolving Line of Credit, bringing the total outstanding balance to $20.0 million. Refer to 11. Debt Obligations for additional information.

On May 9, 2023, INNOVATE issued a subordinated unsecured promissory note to CGIC in the principal amount of $35.1 million, in connection with the DBMGi Preferred Stock repurchase from CGIC. Refer to Footnote 16. Temporary Equity and Equity for additional information. The CGIC Unsecured Note is due February 28, 2026, and bears interest at 9% per annum through May 8, 2024, 16% per annum from May 9, 2024 to May 8, 2025, and 32% per annum thereafter. The CGIC Unsecured Note also requires a mandatory prepayment from the proceeds from certain asset sales and the greater of $3 million or 12.5% of the proceeds from certain equity sales. Refer to 11. Debt Obligations for additional information.

Equity Method Investments

In November 2022, MediBeacon amended its existing agreements with Huadong Medicine Co. Ltd ("Huadong"), to provide approximately $10 million in the first half of 2023, including $7.5 million or 50% of the remaining $15 million milestone investment due upon FDA approval of MediBeacon's TGFR at a pre-money valuation of approximately $400 million.

On March 15, 2022, MediBeacon issued Pansend a $4.5 million 8.0% convertible note due March 2025, increasing the total outstanding principal due by MediBeacon to Pansend to $5.0 million. Prior to December 6, 2023, MediBeacon issued $2.0 million in 12% convertible note payable to Pansend, increasing the total outstanding principal by MediBeacon to Pansend to $7.0 million. On December 6, 2023, MediBeacon terminated the $6.5 million of prior outstanding convertible notes with Pansend and simultaneously issued a new 12% convertible note with an aggregate original principal amount of $7.2 million, which comprised of the prior outstanding convertible principal amounts and unpaid accrued interest of $0.7 million which was capitalized into the new principal balance, with future interest payable upon maturity of the note. Subsequent to December 6, 2023, MediBeacon issued $2.0 million in 12% convertible notes payable to Pansend, and, as of December 31, 2023, the total outstanding principal by MediBeacon to Pansend was $9.7 million, comprised of $9.2 million of convertible notes and $0.5 million of secured notes payable. Subsequent to year end, on February 12, 2024, MediBeacon issued Pansend an additional $0.5 million 12% convertible note.

As a result of these modifications and additional note issuances to MediBeacon during the year ended December 31, 2023, Pansend recognized an additional $4.7 million of equity method losses which were previously unrecognized because Pansend's carrying amount of its investment in MediBeacon had been previously reduced to zero.

On February 23, 2023, pursuant to its amended commercial partnership with Huadong, MediBeacon issued $7.5 million of its preferred stock to Huadong, which decreased Pansend's ownership in MediBeacon from approximately 47.2% as of December 31, 2022 to approximately 46.2% subsequent to the transaction. As a result of this equity transaction, Pansend recognized a gain of $3.8 million in Other income (expense), net in the Consolidated Statements of Operations, which increased Pansend's basis in MediBeacon. Concurrently, Pansend recognized equity method losses of $3.8 million which were previously unrecognized because Pansend's carrying amount of its investment in MediBeacon had been previously reduced to zero.

As of December 31, 2023, Pansend's carrying amount of its investment in MediBeacon remains at zero, inclusive of the $9.7 million in convertible notes which have been offset against recognized losses, and has cumulative unrecognized equity method losses relating to MediBeacon of $8.0 million.

Other

On December 30, 2022, the Company entered into a letter agreement with CGIC pursuant to which CGIC and its affiliates agreed to vote certain shares of the Company’s Series A-3 Convertible Participating Preferred Stock, par value $0.001 per share, and the Company’s Series A-4 Convertible Participating Preferred Stock, par value $0.001 per share, to the extent such shares result in CGIC beneficially owning more than 9.9% of the aggregate voting power of the Company, in the same manner as the majority of the holders holding less than 10% of the Company’s common stock, par value $0.001 per share, vote their shares with respect to any matter pursuant to which such shares are entitled to vote.

Stockholders' Rights Agreement

On April 1, 2023, the Company entered into a Tax Benefits Preservation Plan (the "2023 Preservation Plan") with ComputerShare Trust Company, N.A., as rights agent (the "Rights Agent"). The 2023 Preservation Plan is intended to help protect the Company's ability to use its tax net operating losses and other certain tax assets ("Tax Benefits") by deterring an "ownership change," as defined under Section 382 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder (the "Code"), by a person or group of affiliated or associated persons from acquiring beneficial ownership of 4.9% or more of the outstanding common shares.

In connection with entering into the Plan, on April 1, 2023 the Board of Directors of the Company declared a dividend distribution of one right (a "Right") for each outstanding share of common stock, par value $0.001 per share, of the Company (the "Common Stock") to stockholders of record at the close of business on April 10, 2023 (the "Record Date"). Each Right is governed by the terms of the Plan and entitles the registered holder to purchase from the Company a unit consisting of one one-thousandth of a share (a "Unit") of Series B Preferred Stock, par value $0.001 per share (the "Series B Preferred Stock"), at a purchase price of $15.00 per Unit, subject to adjustment (the "Purchase Price"). The Company had entered into a previous Tax Benefits Preservation Plan on August 30, 2021 (the "2021 Preservation Plan"), in order to help protect the Company's ability to use its Tax Benefits by deterring an ownership change. The 2021 Preservation Plan expired on March 31, 2023.

On June 15, 2023, holders of the Company's common stock and preferred stock, voting as a single class and with the preferred stock voting on an as-converted basis, voted to ratify the amendment of the 2023 Preservation Plan to extend its final expiration date from October 1, 2023 to June 30, 2024, or such later date and time as may be subsequently approved.

Refer to Note 16. Temporary Equity and Equity for additional information.

Financial Presentation Background

In the below section within this Management's Discussion and Analysis of Financial Condition and Results of Operations, we compare, pursuant to U.S. GAAP and SEC disclosure rules, the Company's results of operations for the year ended December 31, 2023 as compared to the year ended December 31, 2022.

Results of Operations

The following table summarizes our results of operations (in millions):

	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Revenue			
Infrastructure	$ 1,397.2	$ 1,594.3	$ (197.1)
Life Sciences	3.3	4.3	(1.0)
Spectrum	22.5	38.7	(16.2)
Total revenue	$ 1,423.0	$ 1,637.3	$ (214.3)
Income (loss) from operations			
Infrastructure	$ 64.4	$ 57.5	$ 6.9
Life Sciences	(15.0)	(20.1)	5.1
Spectrum	(3.4)	(3.8)	0.4
Other	(3.1)	(0.6)	(2.5)
Non-Operating Corporate	(16.4)	(19.6)	3.2
Total income from operations	$ 26.5	$ 13.4	$ 13.1
Interest expense	(68.2)	(52.0)	(16.2)
Loss from equity investees	(9.4)	(1.3)	(8.1)
Other income (expense), net	16.7	(1.2)	17.9
Loss from operations before income taxes	$ (34.4)	$ (41.1)	$ 6.7
Income tax expense	(4.5)	(0.9)	(3.6)
Net loss	$ (38.9)	$ (42.0)	$ 3.1
Net loss attributable to non-controlling interests and redeemable non-controlling interests	3.7	6.1	(2.4)
Net loss attributable to INNOVATE Corp.	$ (35.2)	$ (35.9)	$ 0.7
Less: Preferred dividends	2.4	4.9	(2.5)
Net loss attributable to common stockholders	$ (37.6)	$ (40.8)	$ 3.2

Revenue: Revenue for the year ended December 31, 2023 decreased $214.3 million to $1,423.0 million from $1,637.3 million for the year ended December 31, 2022. The decrease was primarily driven by our Infrastructure segment, and, to a lesser extent, our Spectrum segment. The decrease at our Infrastructure segment was primarily driven by timing and size of projects at DBMG's commercial structural steel fabrication and erection business and lower revenue at the industrial maintenance and repair business. This was partially offset by an increase at Banker Steel and the construction modeling and detailing business due to the timing and size of projects. Revenues at our Spectrum segment decreased primarily as a result of the termination of Network and its associated Azteca content on December 31, 2022, partially offset by an increase in station revenues, which launched new markets and networks with its customers in 2023.

Income from operations: Income from operations for the year ended December 31, 2023, increased $13.1 million to $26.5 million from $13.4 million for the year ended December 31, 2022. The increase was due to a decrease in selling, general and administrative expenses ("SG&A") of $12.1 million and a decrease in depreciation and amortization of $7.0 million, partially offset by a net decrease in gross profit of $5.4 million and an increase in other operating expense of $0.6 million. The decrease in consolidated SG&A was primarily driven by a decrease in SG&A at our Spectrum segment from the termination of Azteca in December 2022, a decrease in restructuring charges at our Infrastructure segment, decreases in SG&A at our Life Sciences segment as a result of cost reduction initiatives, decreases at our Non-Operating Corporate segment in compensation related expenses, legal, acquisition and disposition related expenses, which were partially offset by an accounts receivable write-off of $2.2 million in 2023 at our Infrastructure segment related to a legacy customer bankruptcy, and increases in salaries and wages and consulting expenses at our Infrastructure segment and the Station Group at Spectrum, as well as an increase in expenses at our Other segment as a result of the sale of New Saxon's 19% investment in HMN in 2023. The decrease in consolidated depreciation and amortization was driven primarily by Banker Steel at our Infrastructure segment, as certain intangibles became fully amortized. The $5.4 million decrease in consolidated gross profit was primarily driven by our Spectrum segment's termination of Network, which was partially offset by an increase at Spectrum's Station Group which launched new markets and networks with its customers in 2023 and an increase at our Infrastructure segment driven by timing of higher margin projects. The increase in consolidated other operating expense was primarily driven by our Other segment due to a write-off of prepaid rent in 2023 related to the execution of a sublease, and an impairment of leasehold improvements in 2023 for unutilized space at our Non-Operating Corporate segment, partially offset by decreased impairment expense at our Spectrum segment, which had impaired the Network PLA intangible in 2022.

Interest expense: Interest expense for the year ended December 31, 2023, increased $16.2 million to $68.2 million from $52.0 million for the year ended December 31, 2022. The increase was primarily attributable to higher interest rates, increased amortization of debt issuance costs on the debt from extension fees, and higher outstanding principal balances at all segments for a majority of the current year, as a result of additional debt issued in 2023. Refer to Note 11. Debt Obligations of the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference, for further details on outstanding principal balances.

Loss from equity investees: Loss from equity investees for the year ended December 31, 2023 increased $8.1 million to $9.4 million from $1.3 million for the year ended December 31, 2022. The increase in loss was primarily driven by the sale of our investment in HMN on March 6, 2023, which had income in 2022, as well as equity method losses recorded from our investment in Triple Ring which had income in 2022, and higher equity method losses from our investment in MediBeacon, as a result of recognizing previously suspended losses due to the additional investments made in the current year, which then resulted in the investment's carrying amount again being reduced to zero.

Other income (expense), net: Other income (expense), net for the year ended December 31, 2023 increased $17.9 million to income of $16.7 million from other expense of $1.2 million for the year ended December 31, 2022. Other income, net for the year ended December 31, 2023 primarily consisted of a gain on the sale of our 19% equity investment in HMN of $12.2 million and a $3.8 million step-up gain from the increase in Pansend's carrying amount as a result of MediBeacon issuing $7.5 million of its preferred stock to Huadong, which was partially offset by a loss on the partial sale of our equity investment in Triple Ring of $0.2 million. Refer to Note 6. Investments of the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference, for additional information on our investments. Other expense, net for the year ended December 31, 2022 was primarily comprised of a deemed distribution loss of $1.8 million related to a former subsidiary, CGIC, from a tax sharing arrangement and consolidation on the 2021 tax return, and a fair value adjustment to an investment in our Life Sciences segment. Additionally contributing to the increase in Other income, net for the year ended December 31, 2023 is an increase in interest income earned primarily from $0.5 million related to the sale of our 19% equity investment in HMN, partially offset by an increase in foreign currency translation losses.

Income tax expense: Income tax expense for the year ended December 31, 2023 increased $3.6 million to $4.5 million from $0.9 million for the year ended December 31, 2022. The increase was primarily driven by an unrepeated net tax savings of $3.1 million from the CGIC consolidation on the 2021 tax return, which resulted in a partial release of the valuation in 2022. Income tax expense primarily relates to the tax expense as calculated under ASC 740 for taxpaying entities, for which there was an increase in current state tax expense at certain taxpaying entities due to an increase in profitability. The tax provision for the year ended December 31, 2023 includes a $1.1 million net tax benefit, consisting of a current tax expense of $4.4 million related to foreign withholding tax payment and a deferred tax benefit of $5.5 million related to the reversal of the deferred tax liability associated with the $11.3 million HMN put option agreement, both of which were related to the sale of New Saxon's 19% investment in HMN on March 6, 2023. Additionally, the tax benefits associated with losses generated by the INNOVATE Corp. U.S. consolidated income tax return and certain other businesses in both years have been reduced by a full valuation allowance as we do not believe it is more-likely-than not that the losses will be utilized prior to expiration.

Segment Results of Operations

In the Company's Consolidated Financial Statements, other operating (income) loss includes: (i) (gain) loss on sale or disposal of assets; (ii) lease termination costs; (iii) asset impairment expense; (iv) accretion of asset retirement obligations; and (v) FCC reimbursements. Each table summarizes the results of operations of our operating segments (in millions).

Infrastructure Segment

	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Revenue	$ 1,397.2	$ 1,594.3	$ (197.1)
Cost of revenue	1,192.6	1,392.5	(199.9)
Selling, general and administrative	126.0	123.9	2.1
Depreciation and amortization	14.4	21.0	(6.6)
Other operating income	(0.2)	(0.6)	0.4
Income from operations	$ 64.4	$ 57.5	$ 6.9

Revenue: Revenue for the year ended December 31, 2023 decreased $197.1 million to $1,397.2 million from $1,594.3 million for the year ended December 31, 2022. The decrease was primarily driven by the timing and size of projects at DBMG's commercial structural steel fabrication and erection business and lower revenue at the industrial maintenance and repair business. This was partially offset by an increase at Banker Steel and the construction modeling and detailing business due to the timing and size of projects.

Cost of revenue: Cost of revenue for the year ended December 31, 2023 decreased $199.9 million to $1,192.6 million from $1,392.5 million for the year ended December 31, 2022. The decrease was primarily driven by the decrease in revenues from the timing and size of projects at DBMG's commercial structural steel fabrication and erection business and the industrial maintenance and repair business. This was partially offset by an increase at Banker Steel and the construction modeling and detailing business due to the increase in revenues from the timing and size of projects.

Selling, general and administrative: Selling, general and administrative expense for the year ended December 31, 2023 increased $2.1 million to $126.0 million from $123.9 million for the year ended December 31, 2022. The increase was primarily driven by an increase in salaries and wages, an accounts receivable write-off of $2.2 million related to a legacy customer bankruptcy, and an increase in support and consulting expenses, partially offset by a decrease in restructuring charges, which included $2.1 million in 2023 for a foreign office closure as compared to $6.5 million in 2022 for internal operational project restructuring and other streamlining activities.

Depreciation and amortization: Depreciation and amortization for the year ended December 31, 2023 decreased $6.6 million to $14.4 million from $21.0 million for the year ended December 31, 2022. The decrease was primarily driven by Banker Steel, as certain customer contract intangibles became fully amortized in the second quarter of 2023, and, to a lesser extent, certain capitalized internal-use software became fully depreciated in early 2023.

Other operating income: Other operating income for the year ended December 31, 2023 decreased $0.4 million to $0.2 million from $0.6 million for the year ended December 31, 2022. The decrease in income was primarily driven by gain on an unrepeated asset sale in 2022.

Life Sciences Segment

	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Revenue	$ 3.3	$ 4.3	$ (1.0)
Cost of revenue	2.6	3.5	(0.9)
Selling, general and administrative	15.2	20.6	(5.4)
Depreciation and amortization	0.5	0.3	0.2
Loss from operations	$ (15.0)	$ (20.1)	$ 5.1

Revenue: Revenue for the year ended December 31, 2023 decreased $1.0 million to $3.3 million from $4.3 million for the year ended December 31, 2022. The decrease in revenue was attributable to R2, primarily due to a decrease in system sales outside the U.S. due to payment delays during 2023, as well as a decrease in consumables sold outside the U.S. Partially offsetting the decrease was an increase in sales in the U.S. due to the launch of the Glacial fx system in 2023 and an increase in Glacial Rx units sold in the U.S.

Cost of revenue: Cost of revenue for year ended December 31, 2023 decreased $0.9 million to $2.6 million from $3.5 million for the year ended December 31, 2022. The decrease in cost of revenue was attributable to R2, primarily driven by changes in revenue and the product mix sold.

Selling, general and administrative: Selling, general and administrative expense for the year ended December 31, 2023 decreased $5.4 million to $15.2 million from $20.6 million for the year ended December 31, 2022. The decrease was primarily driven by decreases from R2 in compensation-related expenses, marketing expenses, research and development costs and legal expenses as a result of cost reduction initiatives, as well as a decrease in bad debt expense.

Spectrum Segment

	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Revenue	$ 22.5	$ 38.7	$ (16.2)
Cost of revenue	11.8	19.9	(8.1)
Selling, general and administrative	9.0	15.5	(6.5)
Depreciation and amortization	5.2	5.8	(0.6)
Other operating (income) loss	(0.1)	1.3	(1.4)
Loss from operations	$ (3.4)	$ (3.8)	$ 0.4

Revenue: Revenue for the year ended December 31, 2023 decreased $16.2 million to $22.5 million from $38.7 million for the year ended December 31, 2022. The decrease was primarily driven by the elimination of advertising revenues at Azteca of $17.6 million, which ceased operations on December 31, 2022. This was partially offset by an increase in station revenues, which launched new markets and networks with its customers in 2023.

Cost of revenue: Cost of revenue for the year ended December 31, 2023 decreased $8.1 million to $11.8 million from $19.9 million for the year ended December 31, 2022. The overall decrease was primarily driven by a decrease in advertising cost of revenue as a result of the termination of Azteca.

Selling, general and administrative: Selling, general and administrative expense for the year ended December 31, 2023 decreased $6.5 million to $9.0 million from $15.5 million for the year ended December 31, 2022. The decrease was primarily driven by the termination of the
Azteca America network, which was partially offset by an increase in severance expense and related compensation costs at our Station Group.

Depreciation and amortization: Depreciation and amortization expense for the year ended December 31, 2023 decreased $0.6 million to $5.2 million from $5.8 million for the year ended December 31, 2022. The decrease was primarily driven by the Program License Agreement ("PLA"), which was fully impaired in 2022.

Other operating (income) loss: Other operating (income) loss for the year ended December 31, 2023 increased $1.4 million to income of $0.1 million from a loss of $1.3 million for the year ended December 31, 2022. The improvement was primarily related to an unrepeated impairment loss relating to the full impairment of the PLA intangible in 2022.

Non-Operating Corporate

	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Selling, general and administrative	$ 15.8	$ 19.5	$ (3.7)
Depreciation and amortization	0.1	0.1	—
Other operating loss	0.5	—	0.5
Loss from operations	$ (16.4)	$ (19.6)	$ 3.2

Selling, general and administrative: Selling, general and administrative expenses for the year ended December 31, 2023 decreased $3.7 million to $15.8 million from $19.5 million for the year ended December 31, 2022. primarily driven by decreases in salaries, benefits and bonus from a reduced headcount and change in CEO, a decrease in legal, disposition and acquisition expenses, and a slight decrease in severance expense, which related to the Company's former Chief Operating Officer in 2023 and to the Company's former Chief Legal Officer in 2022.

Other operating loss: Other operating loss for the year ended December 31, 2023 increased to $0.5 million from zero for the year ended December 31, 2022. Other operating loss in 2023 consisted primarily of an impairment of leasehold improvements for unutilized office space.

(Loss) Income from Equity Investees

	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Life Sciences	$ (9.1)	$ (6.2)	$ (2.9)
Other	(0.3)	4.9	(5.2)
Loss from equity investees	$ (9.4)	$ (1.3)	$ (8.1)

Loss from equity investees: Life Sciences: Loss from equity investees within our Life Sciences segment for the year ended December 31, 2023 increased $2.9 million to $9.1 million from $6.2 million for the year ended December 31, 2022. The increase in loss from equity investees was primarily due to equity method losses from our investment in Triple Ring prior to its partial sale on November 30, 2023, which had income in 2022 which was primarily driven by a gain on debt extinguishment recognized in 2022, as well as higher equity method losses recognized from our investment in MediBeacon. Pansend's carrying amount of its investment in MediBeacon has been reduced to zero and Pansend has unrecognized losses from this investment. As a result of an additional equity investment made during the first quarter of 2023 by Huadong to MediBeacon, Pansend's basis in MediBeacon increased by $3.8 million, and, in addition, MediBeacon issued an additional $4.7 million in convertible notes payable to Pansend during 2023, which also increased Pansend's carrying amount of its investment in MediBeacon. Pansend then recognized $8.5 million in equity method losses which were previously unrecognized and subsequently Pansend's carrying amount of its investment in MediBeacon remains at zero.

Other: Loss from equity investees within our Other segment for the year ended December 31, 2023 increased $5.2 million to a loss of $0.3 million from income of $4.9 million for the year ended December 31, 2022. The increase in loss was driven by our previous investment in HMN, which was sold on March 6, 2023, and had losses for the approximately two months of ownership in 2023, compared to net income in 2022.

Refer to Note 6. Investments of the Consolidated Financial Statements included in this Annual Report on Form 10-K, for additional information on our equity investments.

Non-GAAP Financial Measures and Other Information

Adjusted EBITDA

Adjusted EBITDA is not a measurement recognized under U.S. GAAP. In addition, other companies may define Adjusted EBITDA differently than we do, which could limit its usefulness.

Management believes that Adjusted EBITDA provides investors with meaningful information for gaining an understanding of our results as it is frequently used by the financial community to provide insight into an organization’s operating trends and facilitates comparisons between peer companies, since interest, taxes, depreciation, amortization and the other items listed in the definition of Adjusted EBITDA below can differ greatly between organizations as a result of differing capital structures and tax strategies. Adjusted EBITDA can also be a useful measure of a company’s ability to service debt. While management believes that non-U.S. GAAP measurements are useful supplemental information, such adjusted results are not intended to replace our U.S. GAAP financial results. Using Adjusted EBITDA as a performance measure has inherent limitations as an analytical tool as compared to net income (loss) or other U.S. GAAP financial measures, as this non-GAAP measure excludes certain items, including items that are recurring in nature, which may be meaningful to investors. As a result of the exclusions, Adjusted EBITDA should not be considered in isolation and does not purport to be an alternative to net income (loss) or other U.S. GAAP financial measures as a measure of our operating performance.

The calculation of Adjusted EBITDA, as defined by us, consists of Net income (loss) attributable to INNOVATE Corp., excluding: discontinued operations, if applicable; depreciation and amortization; other operating (income) loss, which is inclusive of (gain) loss on sale or disposal of assets, lease termination costs, asset impairment expense and FCC reimbursements; interest expense; other (income) expense, net; income tax expense (benefit); non-controlling interest; share-based compensation expense; legacy accounts receivable expense; restructuring and exit costs; and acquisition and disposition costs.

(in millions)	Year ended December 31, 2023					
	Infrastructure	Life Sciences	Spectrum	Non-Operating Corporate	Other and Eliminations	INNOVATE
Net income (loss) attributable to INNOVATE Corp.	$ 28.7	$ (15.5)	$ (22.2)	$ (33.2)	$ 7.0	$ (35.2)
Adjustments to reconcile net income (loss) to Adjusted EBITDA:						
Depreciation and amortization	14.4	0.5	5.2	0.1	—	20.2
Depreciation and amortization (included in cost of revenue)	15.7	0.1	—	—	—	15.8
Other operating (income) loss	(0.2)	—	(0.1)	0.5	1.1	1.3
Interest expense	13.8	2.9	13.4	38.1	—	68.2
Other (income) expense, net	(1.2)	(4.1)	7.7	(6.7)	(12.4)	(16.7)
Income tax expense (benefit)	20.2	—	0.3	(14.8)	(1.2)	4.5
Non-controlling interest	2.8	(7.3)	(2.5)	—	3.3	(3.7)
Share-based compensation expense	—	0.2	—	2.0	—	2.2
Legacy accounts receivable expense	2.2	—	—	—	—	2.2
Restructuring and exit costs	2.1	—	0.1	—	—	2.2
Acquisition and disposition costs	2.1	0.1	0.1	0.5	1.2	4.0
Adjusted EBITDA	$ 100.6	$ (23.1)	$ 2.0	$ (13.5)	$ (1.0)	$ 65.0

(in millions)	Year ended December 31, 2022					
	Infrastructure	Life Sciences	Spectrum	Non-Operating Corporate	Other and Eliminations	INNOVATE
Net income (loss) attributable to INNOVATE Corp.	$ 29.2	$ (19.2)	$ (13.3)	$ (35.3)	$ 2.7	$ (35.9)
Adjustments to reconcile net income (loss) to Adjusted EBITDA:						
Depreciation and amortization	21.0	0.3	5.8	0.1	—	27.2
Depreciation and amortization (included in cost of revenue)	15.0	—	—	—	—	15.0
Other operating (income) loss	(0.6)	—	1.3	—	—	0.7
Interest expense	10.1	0.8	7.4	33.7	—	52.0
Other (income) expense, net	(1.0)	0.4	3.9	(1.9)	(0.2)	1.2
Income tax expense (benefit)	16.5	—	(0.1)	(16.2)	0.7	0.9
Non-controlling interest	2.8	(8.2)	(1.9)	—	1.2	(6.1)
Share-based compensation expense	—	0.5	—	1.9	—	2.4
Restructuring and exit costs	6.5	—	0.7	—	—	7.2
Acquisition and disposition costs	2.2	—	0.7	1.0	(0.4)	3.5
Adjusted EBITDA	$ 101.7	$ (25.4)	$ 4.5	$ (16.7)	$ 4.0	$ 68.1

Adjusted EBITDA by segment is summarized as follows:

(in millions):	Year Ended December 31,		
	2023	2022	Increase / (Decrease)
Infrastructure	$ 100.6	$ 101.7	$ (1.1)
Life Sciences	(23.1)	(25.4)	2.3
Spectrum	2.0	4.5	(2.5)
Non-Operating Corporate	(13.5)	(16.7)	3.2
Other and Eliminations	(1.0)	4.0	(5.0)
Adjusted EBITDA	$ 65.0	$ 68.1	$ (3.1)

Infrastructure: Net income from our Infrastructure segment for the year ended December 31, 2023 decreased $0.5 million to $28.7 million from $29.2 million for the year ended December 31, 2022. Adjusted EBITDA from our Infrastructure segment for the year ended December 31, 2023 decreased $1.1 million to $100.6 million from $101.7 million for the year ended December 31, 2022. The slight decrease in Adjusted EBITDA was primarily driven by lower contributions from Banker Steel and the industrial maintenance and repair businesses due to the timing of projects, as well as an increase in recurring SG&A, primarily salaries and wages and consulting expenses. This was partially offset by DBMG's commercial structural steel fabrication and erection business which had margin improvement as projects completed in 2022, which had lower margins due to market pressure on point-of-sale project margins during the COVID-19 pandemic, were replaced with more recent projects with higher point-of-sale margins in 2023 and increased contribution from the construction modeling and detailing business.

Life Sciences: Net loss from our Life Sciences segment for the year ended December 31, 2023 decreased $3.7 million to $15.5 million from $19.2 million for the year ended December 31, 2022. Adjusted EBITDA loss from our Life Sciences segment for the year ended December 31, 2023 decreased $2.3 million to $23.1 million from $25.4 million for the year ended December 31, 2022. The decrease in Adjusted EBITDA loss was primarily due to a decrease in SG&A expenses at R2, driven by a decrease in compensation-related expenses, marketing costs, research and development and legal expenses as a result of cost reduction initiatives, as well as a decrease in bad debt expense. The decrease was partially offset by higher equity method losses from our investment in Triple Ring driven by a gain on debt extinguishment recognized in 2022, as well as higher equity method losses recognized from our investment in MediBeacon in 2023 due to additional investments in MediBeacon during 2023 resulting in previously suspended losses being recognized and subsequently Pansend's carrying amount of its investment in MediBeacon remains at zero.

Spectrum: Net loss from our Spectrum segment for the year ended December 31, 2023 increased $8.9 million to $22.2 million from $13.3 million for the year ended December 31, 2022. Adjusted EBITDA from our Spectrum segment for the year ended December 31, 2023 decreased $2.5 million to $2.0 million from $4.5 million for the year ended December 31, 2022. The decrease in Adjusted EBITDA was primarily due to an increase in severance expense and related compensation costs at Station Group, and the termination of Azteca in 2022, which were partially offset by an increase in Station revenues, which launched new markets and networks with its customers in 2023.

Non-Operating Corporate: Net loss from our Non-Operating Corporate segment for the year ended December 31, 2023 decreased $2.1 million to $33.2 million from $35.3 million for the year ended December 31, 2022. Adjusted EBITDA loss from our Non-Operating Corporate segment for the year ended December 31, 2023 decreased $3.2 million to $13.5 million from $16.7 million for the year ended December 31, 2022. The decrease in Adjusted EBITDA loss was primarily driven by decreases in salaries, benefits and bonus from a reduced headcount and change in CEO, a decrease in legal expenses, and a slight decrease in severance expense, which related to the Company's former Chief Operating Officer in 2023 and to the Company's former Chief Legal Officer in 2022.

Other and Eliminations: Net income from our Other segment and Eliminations for the year ended December 31, 2023 increased $4.3 million to $7.0 million from $2.7 million for the year ended December 31, 2022. Adjusted EBITDA from our Other segment for the year ended December 31, 2023 decreased $5.0 million to an Adjusted EBITDA loss of $1.0 million from Adjusted EBITDA income of $4.0 million for the year ended December 31, 2022. The decrease in Adjusted EBITDA was primarily driven by reduced contribution from HMN, which was sold on March 6, 2023 and, to a lesser extent, severance related expense incurred in 2023 at TIC Holdco, Inc.

Backlog

Projects in backlog consist of awarded contracts, letters of intent, notices to proceed, change orders, and purchase orders obtained. Backlog increases as contract commitments are obtained, decreases as revenues are recognized and increases or decreases to reflect modifications in the work to be performed under the contracts. Backlog is converted to sales in future periods as work is performed or projects are completed. Backlog can be significantly affected by the receipt or loss of individual contracts.

Infrastructure Segment

As of December 31, 2023, DBMG's backlog was $1,057.2 million, consisting of $1,032.9 million under contracts or purchase orders and $24.3 million under letters of intent or notices to proceed. Approximately $487.3 million, representing 46.1% of DBMG's backlog as of December 31, 2023, was attributable to five contracts, letters of intent, notices to proceed or purchase orders. If one or more of these projects terminate or reduce their scope, DBMG's backlog could decrease substantially. DBMG includes an additional $15.0 million in its backlog that is not included in the remaining unsatisfied performance obligations disclosed in Note 3. Revenue and Contracts in Process. This additional backlog includes commitments under master service agreements that are estimated amounts of work to be performed based on customer communications, historic performance and knowledge of our customers' intentions.

Liquidity and Capital Resources

Short- and Long-Term Liquidity Considerations and Risks

Our Non-Operating Corporate segment consists of holding companies, and its liquidity needs are primarily for interest payments on its 2026 Senior Secured Notes, 2026 Convertible Notes, Revolving Line of Credit, CGIC Unsecured Note, and dividend payments on its Preferred Stock and recurring operational expenses.

On a consolidated basis, as of December 31, 2023, we had $80.8 million of cash and cash equivalents, excluding restricted cash, compared to $80.4 million as of December 31, 2022. On a stand-alone basis, as of December 31, 2023, our Non-Operating Corporate segment had cash and cash equivalents, excluding restricted cash, of $2.5 million compared to $9.1 million at December 31, 2022.

Our subsidiaries' principal liquidity requirements arise from cash used in operating activities, debt service, and capital expenditures, including purchases of steel construction equipment, OTA broadcast station equipment, development of back-office systems, operating costs and expenses, and income taxes.

As of December 31, 2023, we had $722.8 million of principal indebtedness on a consolidated basis compared to $725.3 million as of December 31, 2022, a net decrease of $2.5 million, which was primarily due to a $44.2 million net decrease in debt at our Infrastructure segment, mostly offset by the issuance of the $35.1 million CGIC Unsecured Note at our Non-Operating Corporate segment and the issuance of additional debt at R2 Technologies in principal amount of $6.6 million.

As of December 31, 2023, on a stand-alone basis, our Non-operating Corporate segment indebtedness increased to $436.9 million from $401.8 million as of December 31, 2022, an increase of $35.1 million, attributable to the issuance of the $35.1 million CGIC Unsecured Note. As of December 31, 2023, our Non-Operating Corporate segment's stand-alone indebtedness consists of the $330.0 million aggregate principal amount of 2026 Senior Secured Notes, $51.8 million aggregate principal amount of 2026 Convertible Notes, $35.1 million principal amount CGIC Unsecured Note and $20.0 million aggregate principal amount drawn on the Revolving Line of Credit. Our Non-Operating Corporate segment is required to make semi-annual interest payments on the 2026 Senior Secured Notes and 2026 Convertible Notes on February 1st and August 1st of each year, quarterly interest payments on the Revolving Line of Credit, and monthly interest payments on the CGIC Unsecured Note. As described below, the interest rate on the CGIC Unsecured Note will increase from 9% per annum to 16% per annum on May 9, 2024 and from 16% per annum to 32% per annum on May 9, 2025.

We are required to make dividend payments on our outstanding Preferred Stock on January 15th, April 15th, July 15th, and October 15th of each year.

Our Non-Operating Corporate segment received $24.2 million in tax sharing payments from our Infrastructure segment for the year ended December 31, 2023.

We have financed our growth and operations to date, and expect to finance our future growth and operations, through public offerings and private placements of debt and equity securities, credit facilities, vendor financing, finance lease financing and other financing arrangements, as well as cash generated from the operations of our subsidiaries. In the future, we may also choose to sell assets or certain investments to generate cash.

On March 15, 2023, DBMGi received a redemption notice from CGIC, the holder of the Series A Fixed-to-Floating Rate Perpetual Preferred Stock of DBMGi (the "DBMGi Preferred Stock") requesting that DBMGi redeem 41,820.25 shares of DBMGi Preferred Stock, representing all of the issued and outstanding shares of DBMGi Preferred Stock, within 60 days of the notice, or by May 15, 2023. On May 9, 2023, the Company entered into a Stock Purchase Agreement and Subordinated Unsecured Promissory Note with CGIC whereby the Company agreed to purchase the 41,820.25 shares of DBMGi Preferred Stock for full satisfaction of the redemption notice. In full consideration of the DBMGi Preferred Stock as well as an accrued dividend of $0.4 million, the Company paid CGIC $7.1 million on May 9, 2023, and issued a subordinated unsecured promissory note to CGIC in the principal amount of $35.1 million (the "CGIC Unsecured Note"). The CGIC Unsecured Note is due February 28, 2026, and bears interest at 9% per annum through May 8, 2024, 16% per annum from May 9, 2024 to May 8, 2025, and 32% per annum thereafter. The CGIC Unsecured Note also requires a mandatory prepayment from the proceeds from certain asset sales and the greater of $3 million or 12.5% of the proceeds from certain equity sales. Other covenants in the CGIC Unsecured Note are generally consistent with the Company's Indenture governing the 8.50% Senior Secured Notes due 2026, dated as of February 1, 2021, by and among the Company, the guarantors party thereto and U.S. Bank National Association. The foregoing is a summary only and does not purport to be a complete description of all of the terms, provisions, covenants, and agreements contained in the Stock Purchase Agreement and Subordinated Unsecured Promissory Note, and is subject to and qualified in its entirety by reference to the full text of the Stock Purchase Agreement and Subordinated Unsecured Promissory Note, which are referenced in our Exhibits listing in this Annual Report on Form 10-K, and are incorporated herein by reference. On May 8, 2023, INNOVATE drew an additional $8.0 million under the Revolving Credit Agreement.

Additionally, on July 31, 2023, INNOVATE drew an additional $7.0 million under the Revolving Credit Agreement, increasing the outstanding balance to $20.0 million as of December 31, 2023.

On February 23, 2024, the Company's Board of Directors (the "Board") approved a plan to proceed with a $19.0 million rights offering for its common stock and fixed March 6, 2024 as the record date for holders of common stock entitled to participate in the rights offering. On March 5, 2024, the Company set the subscription price at which the rights would be exercisable at $0.70 per share and entered into an investment agreement (the "Investment Agreement") with Lancer Capital, a related party and an entity controlled by Avram A. Glazer, the Chairman of the Board and a beneficial owner of 29.1% of our common stock, pursuant to which the rights offering will be backstopped by Lancer Capital. Pursuant to the Investment Agreement, Lancer Capital will also purchase an additional $16.0 million of the Company's Series C Preferred Stock in a private placement transaction to close concurrently with the settlement of the rights offering. For more information regarding the back-stop and private placement commitments from Lancer Capital under the Investment Agreement, see "Recent Developments." At this time, management believes that the Company will be able to continue to meet its liquidity requirements and fund its fixed obligations (such as debt service and operating leases) and other cash needs for its operations for at least the next twelve months from the issuance of the Consolidated Financial Statements through a combination of available cash on hand, distributions from the Company's subsidiaries and the rights offering together with the back-stop and private placement commitments from Lancer Capital under the Investment Agreement.

The ability of INNOVATE's subsidiaries to make distributions to INNOVATE is subject to numerous factors, including restrictions contained in each subsidiary's financing agreements, availability of sufficient funds at each subsidiary and the approval of such payment by each subsidiary's board of directors, which must consider various factors, including general economic and business conditions, tax considerations, strategic plans, financial results and condition, expansion plans, any contractual, legal or regulatory restrictions on the payment of dividends, and such other factors each subsidiary's board of directors considers relevant. Although the Company believes that it will be able, to the extent needed, to raise additional debt or equity capital, refinance indebtedness or preferred stock, enter into other financing arrangements or engage in asset sales and sales of certain investments sufficient to fund any cash needs that we are not able to satisfy with the funds on hand or expected to be provided by our subsidiaries, there can be no assurance that it will be able to do so on terms satisfactory to the Company, if at all. Such financing options, if pursued, may also ultimately have the effect of negatively impacting our liquidity profile and prospects over the long-term and dilute the holders of common stock. Our ability to sell assets and certain of our investments to meet our existing financing needs may also be limited by our existing financing instruments. In addition, the sale of assets or the Company's investments may also make the Company less attractive to potential investors or future financing partners.

Capital Expenditures

Capital expenditures are set forth in the table below (in millions):

	Year Ended December 31,	
	2023	2022
Infrastructure	$ 16.6	$ 16.5
Life Sciences	0.5	0.8
Spectrum	1.0	3.3
Non-Operating Corporate	0.3	0.1
Total	$ 18.4	$ 20.7

Indebtedness

Non-Operating Corporate

2026 Senior Secured Notes

On February 1, 2021, our Non-Operating Corporate segment repaid the senior secured notes that were due in 2021 and issued $330.0 million aggregate principal amount of 8.50% senior secured notes due February 1, 2026 (the "2026 Senior Secured Notes"). The 2026 Senior Secured Notes mature on February 1, 2026, and accrue interest at a rate of 8.50% per year, which interest is paid semi-annually on February 1st and August 1st of each year. For additional information on the terms and conditions of the 2026 Senior Secured Notes, including guarantees, ranking and collateral, refer to Note 11. Debt Obligations included in this Annual Report on Form 10-K, which is incorporated herein by reference.

2026 Convertible Notes - Terms and Conditions

As of December 31, 2023, we had $51.8 million 2026 Convertible Notes outstanding. The 2026 Convertible Notes were issued under a separate indenture dated February 1, 2021, between the Company and U.S. Bank, as trustee (the "Convertible Indenture"). The 2026 Convertible Notes mature on August 1, 2026 unless earlier converted, redeemed or purchased. The 2026 Convertible Notes accrue interest at a rate of 7.5% per year, which interest is paid semi-annually on February 1st and August 1st of each year. For additional information on the terms and conditions of the 2026 Convertible Notes, including optional redemption, conversion rights guarantees, ranking and collateral, refer to Note 11. Debt Obligations included in this Annual Report on Form 10-K, which is incorporated herein by reference.

Our debt contains customary events of default which could, subject to certain conditions, cause the 2026 Senior Secured Notes and the 2026 Convertible Notes to become immediately due and payable.

Revolving Credit Agreement

We have a revolving credit agreement with MSD PCOF Partners IX, LLC ("MSD") which has a maximum commitment of $20.0 million ("Revolving Line of Credit"), of which $20.0 million had been drawn as of December 31, 2023. Interest on loans under the Revolving Line of Credit accrues at SOFR plus 5.75% and is payable quarterly. The Revolving Line of Credit also includes a commitment fee at a per annum rate of 1.0% calculated based off the actual daily amount of unused availability under the revolving credit line with MSD. The maturity date of the Revolving Line of Credit is March 16, 2025. The amount outstanding under the Revolving Line of Credit is subject to mandatory prepayment from the net cash proceeds from certain asset sales in excess of $10.0 million.

In March 2023, the Company paid down $15.0 million of the Revolving Credit Agreement, and in May and July 2023, INNOVATE drew an aggregate additional $15.0 million under the Revolving Credit Agreement, bringing the outstanding balance to $20.0 million as of December 31, 2023.

For additional information on the terms and conditions of the Revolving Credit Facility, including guarantees, ranking and collateral, refer to Note 11. Debt Obligations included in this Annual Report on Form 10-K, which is incorporated herein by reference.

CGIC Unsecured Note

On May 9, 2023, in connection with the redemption of the DBMGi Preferred Stock, the Company issued a subordinated unsecured promissory note to CGIC in the principal amount of $35.1 million (the "CGIC Unsecured Note"). The CGIC Unsecured Note is due February 28, 2026, and bears interest at 9% per annum through May 8, 2024, 16% per annum from May 9, 2024 to May 8, 2025, and 32% per annum thereafter. The CGIC Unsecured Note also requires a mandatory prepayment from the proceeds from certain asset sales and the greater of $3 million or 12.5% of the proceeds from certain equity sales. Refer to Footnote 16. Temporary Equity and Equity and 11. Debt Obligations of the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference.

Infrastructure

As of December 31, 2023, our Infrastructure segment had an aggregate principal amount of outstanding debt of $198.8 million, which consists of $91.4 million 3.25% Term Loan with UMB, $100.0 million Revolving Line with UMB, $5.0 million, a 4.0% Note due 2024, and $2.4 million of obligations under finance leases. On August 2, 2022, DBMG negotiated and finalized an amendment to its UMB Revolving Line which included a retrospective change to the terms of the Fixed Coverage Ratio, and an increase in the UMB Revolving Line commitment from $110.0 million to $135.0 million, among other things. On December 12, 2023, Infrastructure and UMB entered into an amendment to the agreement that extended the maturity date of the Revolving Line from May 31, 2024 to August 15, 2025, increased the interest rate spread for the Revolving Line by 0.35% across all tiers, and established an interest rate floor of 4.25%. The Revolving Line also includes a commitment fee equal to 0.25% per annum times the average daily unused availability under the line.

DBMG and Banker Steel, jointly and severally, have a subordinated 4.0% note payable to Banker Steel's former owner, in which Donald Banker's family trust has a 25% interest, and jointly and severally also had a subordinated 8.0% note payable to Donald Banker's family trust. During the year ended December 31, 2023, DBMG made $12.1 million in scheduled repayments of the principal on these notes and made accelerated repayments of $16.6 million in full settlement of the 8.0% subordinated note. Banker Steel also previously had a subordinated 11.0% note payable to Donald Banker of $6.3 million, which was redeemed in full by DBMG on April 4, 2022. As of December 31, 2023, the 4.0% note payable had a remaining balance of $5.0 million.

Refer to Note 11. Debt Obligations of the Consolidated Financial Statements included in this Annual Report on Form 10-K which is incorporated herein by reference, for additional details regarding the indebtedness of our Infrastructure segment.

Life Sciences

As of December 31, 2023, our Life Sciences segment has aggregate principal outstanding debt of $17.4 million.

During the year ended December 31, 2022, R2 Technologies entered into various note purchase agreements with Lancer Capital, an entity controlled by Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, for an aggregate $10.8 million in notes at a 18% per annum interest rate as of December 31, 2022. During 2023, R2 closed on an additional $6.6 million of notes, including $1.3 million of unpaid accrued interest which was capitalized into the new principal balance, increasing the aggregate outstanding principal to $17.4 million as of December 31, 2023. The per annum interest rate on the outstanding principal balance also increased to 20%. In addition, after various amendments throughout 2023, R2 entered into an amendment with Lancer Capital on November 15, 2023 to extend the maturity date of all outstanding prior existing notes to the earlier of January 31, 2024 or within five business days of the date on which R2 receives an aggregate $20.0 million from the consummation of a debt or equity financing.

Subsequent to year end, the notes expired on January 31, 2024. Effective January 31, 2024, R2 and Lancer Capital simultaneously issued a new 20% note with an aggregate original principal amount of $20.0 million, which is comprised of the prior outstanding principal amounts and unpaid accrued interest of $2.6 million which was capitalized into the new principal balance, with future interest payable monthly in arrears, in cash or, if not paid in cash, accrued and unpaid interest will be capitalized monthly into the principal balance. The maturity date of the new note is April 30, 2024 or within five business days of the date on which R2 Technologies receives an aggregate $20.0 million from the consummation of a debt or equity financing or has a change in control, as defined in the agreement, with an optional prepayment of the entire then-outstanding and unpaid principal and accrued interest upon five-days written notice to Lancer Capital. The new note also includes an exit fee payable upon the earliest of the maturity date, the acceleration date of the principal amount of the note, for any reason as defined in the agreement, or the date upon which any prepayment is made. The exit fee shall be equal to 10.20% if payment is made anytime from February 1, 2024 through February 29, 2024, 10.37% if payment is made anytime from March 1, 2024 through March 31, 2024, and 10.54% if payment is made anytime from April 1, 2024 through April 30, 2024. Refer to Note 17. Related Parties in the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference for additional information on R2 Technologies' debt obligations.

Spectrum

As of December 31, 2023, our Spectrum segment has aggregate principal outstanding debt of $69.7 million.

On December 30, 2022, Broadcasting entered into a Seventh Omnibus Amendment to Secured Notes which, among other things, extended the maturity date of $52.2 million of its Senior Secured Notes, due December 30, 2022 to May 31, 2024. Interest is capitalized and payable upon maturity of the principal. The $52.2 million of Senior Secured Notes consisted of $19.3 million of 8.5% Senior Secured Notes and $32.9 million of 10.5% Senior Secured Notes. The other terms of the $19.3 million 8.5% Senior Notes remained the same. At the time of the extension, Broadcasting had accrued interest and other fees of $6.9 million. The interest rate on the $32.9 million 10.5% Senior Notes was increased to 11.45% and cumulative accrued interest and exit fees of $17.5 million were capitalized into the principal balance with both note extensions accounted for as debt modification events. All other terms were essentially the same. Total outstanding principal after the refinancing was $69.7 million, and $6.9 million of accrued interest and fees remain accrued, with total exit fees of $7.6 million which were recorded as original issue discount with a corresponding liability reflected in Other Liabilities in the Consolidated Balance Sheet. Interest is capitalized and payable upon maturity of the principal.

Concurrently therewith and as part of the consideration for extending the 10.5% Senior Notes in December 2022, Broadcasting amended warrants to purchase 145,825 shares of common stock of HC2 Broadcasting Holdings, Inc. common stock held by the lenders of the 10.5% Senior Notes by extending the time to exercise such to the second half of 2026 and reducing the exercise price per share (i) from $140.00 to $0.01 in the case of the certain of the warrants and (ii) from $130.00 to $0.01 in the case of the remaining warrants. The warrants are exercisable at any time. The change in the fair value of the warrants was recorded as original issue discount with a corresponding impact reflected in Non-controlling interest of $3.1 million.

On August 8, 2023, Broadcasting entered into an Eighth Amendment to Secured Notes with its lenders which extended the maturity date of its Senior Secured Notes aggregate principal amount of $69.7 million, from May 31, 2024 to August 15, 2024. In exchange, Broadcasting incurred an additional exit fee of $1.1 million which was recorded as original issue discount with a corresponding liability reflected in Other Liabilities in the Consolidated Balance Sheet.

On November 9, 2023, Broadcasting entered into a Ninth Amendment to its Secured Notes with its lenders which extended the maturity date of its Senior Secured Notes aggregate principal amount of $69.7 million, from August 15, 2024 to August 15, 2025. In exchange, Broadcasting will pay additional exit fees of $7.2 million which are payable on the earlier of maturity or repayment of the principal. Interest is also capitalized and payable upon maturity of the principal. In addition, the time to exercise the related warrants was extended to August 2027. As of December 31, 2023, the effective interest rates on the notes, as amended, ranged from 20.6% to 24.0% per annum.

In addition, INNOVATE Corp. entered into a related side letter with the institutional investors, whereby INNOVATE has agreed to utilize proceeds from the sale of certain of its existing operations, as allowable under the Company's current agreements and indentures and after all other required payments have been made, for repayment of a portion of Broadcasting's Senior Secured Notes. Assuming there are sufficient proceeds remaining after such repayment, an additional $1.0 million fee is payable if repayment occurs by November 9, 2024, or $2.0 million if repayment occurs after that date. In exchange for the additional fee, the institutional investors will return their equity interests in HC2 Broadcasting Holdings, Inc. and equity interests in DTV America.

The Company accounted for the transactions related to the Eighth Amendment, Ninth Amendment and the side letter as debt modification events under US GAAP as the present value of cash flows under the amended terms of Broadcasting's Senior Secured Notes was less than 10% different from the present value of cash flows under the original terms of the notes. As a result of the modifications, and as of December 31, 2023, the Company has total capitalized estimated exit fees of $15.9 million, which are reflected in Other Liabilities in the Consolidated Balance Sheet.

Refer to Note 11. Debt Obligations to the Consolidated Financial Statements included in this Annual Report on Form 10-K for additional details regarding the indebtedness of our Infrastructure, Life Sciences and Spectrum segments.

Restrictive Covenants

The indenture governing the 2026 Senior Secured Notes dated February 1, 2021, by and among INNOVATE, the guarantors party thereto and U.S. Bank National Association, a national banking association, as trustee (the "Secured Indenture"), contains certain affirmative and negative covenants limiting, among other things, the ability of the Company, and, in certain cases, the Company's subsidiaries, to incur additional indebtedness; create liens; engage in sale-leaseback transactions; pay dividends or make distributions in respect of capital stock; make certain restricted payments; sell assets; engage in transactions with affiliates; or consolidate or merge with, or sell substantially all of its assets to, another person. These covenants are subject to a number of important exceptions and qualifications.

The Company is also required to comply with certain financial maintenance covenants, which are similarly subject to a number of important exceptions and qualifications. These covenants include maintenance of (1) liquidity and (2) collateral coverage.

The maintenance of liquidity covenant provides that the Company will not permit the aggregate amount of (i) all unrestricted cash and Cash Equivalents of the Company and the Subsidiary Guarantors, (ii) amounts available for drawing under revolving credit facilities and undrawn letters of credit of the Company and the Subsidiary Guarantors and (iii) dividends, distributions or payments that are immediately available to be paid to the Company by any of its Restricted Subsidiaries to be less than the Company's obligation to pay interest for the next six months on the 2026 Senior Secured Notes and all other Debt, including Convertible Preferred Stock mandatory cash dividends or any other mandatory cash pay Preferred Stock but excluding any obligation to pay interest on Convertible Preferred Stock or any other mandatory cash payments on Preferred Stock which, in each case, may be paid by accretion or in-kind in accordance with its terms of the Company and its Subsidiary Guarantors. As of December 31, 2023, the Company was in compliance with this covenant.

The maintenance of collateral coverage provides that the certain subsidiaries' Collateral Coverage Ratio (as defined in the Secured Indenture as the ratio of (i) the Loan Collateral to (ii) Consolidated Secured Debt (each as defined therein)) calculated on a pro forma basis as of the last day of each fiscal quarter may not be less than 1.50 to 1.00. As of December 31, 2023, the Company was in compliance with this covenant.

The instruments governing the Company's Preferred Stock also limit the Company's and its subsidiaries ability to take certain actions, including, among other things, to incur additional indebtedness; issue additional Preferred Stock; engage in transactions with affiliates; and make certain restricted payments. These limitations are subject to a number of important exceptions and qualifications.

The Company has conducted its operations in a manner that has resulted in compliance with the Secured Indenture; however, compliance with certain financial covenants for future periods may depend on the Company or one or more of the Company's subsidiaries undertaking one or more non-operational transactions, such as the management of operating cash outflows, a monetization of assets, a debt incurrence or refinancing, the raising of equity capital, or similar transactions. If the Company is unable to remain in compliance and does not make alternate arrangements, an event of default would occur under the Company's Secured Indenture which, among other remedies, could result in the outstanding obligations under the indenture becoming immediately due and payable and permitting the exercise of remedies with respect to the collateral. There is no assurance the Company will be able to complete any non-operational transaction it may undertake to maintain compliance with covenants under the Secured Indenture or, even if the Company completes any such transaction, that it will be able to maintain compliance for any subsequent period.

The UMB Term Loan and UMB Revolving Line associated with our Infrastructure segment contains customary restrictive and financial covenants related to debt levels and performance, including a Fixed Charge Coverage Ratio covenant, as defined in the agreement.

As of December 31, 2023, we were in compliance with the covenants of our debt agreements.

Summary of Consolidated Cash Flows

The below table summarizes the cash provided by or used in our activities (in millions):

	Year Ended December 31,		Increase / (Decrease)
	2023	2022	
Cash provided by (used in) operating activities	26.5	(9.5)	36.0
Cash provided by (used in) investing activities	39.1	(22.5)	61.6
Cash (used in) provided by financing activities	(65.3)	68.1	(133.4)
Effects of exchange rate changes on cash, cash equivalents and restricted cash	(0.2)	(1.4)	1.2
Net increase in cash and cash equivalents, including restricted cash	$ 0.1	$ 34.7	$ (34.6)

Operating Activities

Cash provided by operating activities was $26.5 million for the year ended December 31, 2023, as compared to cash used in operating activities of $9.5 million for the year ended December 31, 2022, an improvement of $36.0 million. Cash flows from operations are primarily influenced by changes in the timing of demand for services and operating margins, but can also be affected by working capital needs associated with our operations. For the year ended December 31, 2023, the improvement in cash provided by operating activities was primarily due to an improvement in working capital cash flows at our Infrastructure segment, primarily from changes in contract-related assets and liabilities at our Infrastructure segment, which was partially offset by an increase in net loss after non-cash adjustments.

Investing Activities

Cash provided by investing activities was $39.1 million for the year ended December 31, 2023 as compared to cash used in investing activities of $22.5 million for the year ended December 31, 2022, an improvement of $61.6 million. The improvement in cash provided by investing activities was primarily driven by the $54.2 million of gross cash proceeds received from the sale of New Saxon's 19% investment in HMN on March 6, 2023 and $5.0 million received from Pansend's partial sale of Triple Ring in 2023. Capital expenditures, net of disposals for the year ended December 31, 2023 were $16.8 million, as compared to $18.7 million for year ended December 31, 2022, a net decrease in cash used in PP&E activity of $1.9 million, primarily due to the completion of the Spectrum station build-outs in 2022. Additionally, loans to MediBeacon totaled $4.0 million for year ended December 31, 2023 as compared to $4.5 million for the year ended December 31, 2022, for a decrease in cash outflows of $0.5 million.

Financing Activities

Cash used in financing activities was $65.3 million for the year ended December 31, 2023 as compared to cash provided by financing activities of $68.1 million for the year ended December 31, 2022, an increase in cash used of $133.4 million. The increase in cash used in financing activities was primarily driven by a decrease in net proceeds from our credit facilities of $99.3 million, primarily from a decrease in net proceeds from Infrastructure's UMB Revolving Line of $84.3 million, as the prior year activity included draws on the line to fund working capital requirements on large complex jobs, and a decrease in net proceeds from our Non-Operating Corporate Revolving Line of Credit of $15.0 million. Net repayments on other debt obligations increased by $14.6 million for the year ended December 31, 2023, primarily due to principal payments on Infrastructure's Term Loan and other notes payable, partially offset by new debt at R2 from Lancer Capital. In addition, during the year ended December 31, 2023, we made $15.9 million in distributions to non-controlling interests and redeemable non-controlling interests related to the sale of New Saxon's 19% investment in HMN on March 6, 2023. The Company also made a $7.0 million payment in connection with the repurchase the DBMGi Series A Preferred Stock during the year ended December 31, 2023, which resulted in a decrease in dividend payments of $3.0 million as compared to the prior year.

Infrastructure

Cash Flows

Cash flows from operating activities are the principal source of cash used to fund DBMG’s operating expenses, interest payments on debt, and capital expenditures. DBMG's short-term cash needs are primarily for working capital to support operations including receivables, inventories, and other costs incurred in performing its contracts. DBMG attempts to structure the payment arrangements under its contracts to match costs incurred under the project. To the extent it is able to bill in advance of costs incurred, DBMG generates working capital through billings in excess of costs and recognized earnings on uncompleted contracts. DBMG relies on its credit facilities to meet its working capital needs. DBMG believes that its available funds, cash generated by operating activities and funds available under its bank credit facilities will be adequate to meet all funding requirements for its operating expenses, working capital needs, interest payments on debt and capital expenditures for the foreseeable future. However, DBMG may expand its operations through future acquisitions and may require additional equity or debt financing.

DBMG is required to make monthly or quarterly interest payments on all of its debt. Based upon the December 31, 2023 debt balance, DBMG anticipates that its interest payments will be approximately $2.8 million for each quarter of 2024.

Off- Balance Sheet Arrangements

We may enter into certain off-balance sheet arrangements in the ordinary course of business. Our off-balance sheet transactions may include, but are not limited to: leases that have not yet commenced, short-term leases, liabilities associated with non-cancelable operating leases with durations of less than twelve months, letter of credit obligations, surety, performance or payment bonds entered into in the normal course of business, and liabilities associated with multi-employer pension plans. Refer to Note 9. Leases, Note 13. Commitments and Contingencies of the Consolidated Financial Statements included in this Annual Report on Form 10-K for additional information on leases and letters of credit and performance and/or payment bonds, respectively.

New Accounting Pronouncements

For information on new accounting pronouncements refer to Note 2. Summary of Significant Accounting Policies of the Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference for additional information.

Critical Accounting Estimates

The preparation of financial statements in accordance with generally accepted accounting principles under U.S. Generally Accepted Accounting Principles ("GAAP") requires the use of estimates and assumptions that have an impact on the assets, liabilities, revenue and expense amounts reported. These estimates can also affect supplemental disclosures, including information about contingencies, risk and financial condition.

Critical accounting estimates are defined as those that are reflective of significant judgments and uncertainties and potentially yield materially different results under different assumptions or conditions. Given current facts and circumstances, we believe that our estimates and assumptions are reasonable, adhere to GAAP and are consistently applied. Our selection and disclosure of our critical accounting policies and estimates has been reviewed with our Audit Committee. The following is a review of the more significant assumptions and estimates used in the preparation of our consolidated financial statements. For all of these estimates, we caution that future events rarely develop exactly as forecast, and the best estimates routinely require adjustment. Refer to Note 2. Summary of Significant Accounting Policies to our Consolidated Financial Statements included in this Annual Report on Form 10-K, which discusses our significant accounting policies and is incorporated herein by reference.

Revenue Recognition - Estimated Costs to Complete

With respect to our Infrastructure segment (DBM Global Inc.), we recognize a significant portion of our revenue over time using the input method to measure the progress of costs incurred for our service and construction contracts. DBM Global Inc. performs its services primarily under fixed-price contracts and recognizes revenue over time using the input method to measure progress for its projects. The nature of the projects does not provide measurable value to the customer over time and control does not transfer to the customer at discrete points in time. There is typically no alternative use to the Company for the partially completed construction project, resulting in the recognition of revenue over time as progress is made towards completion rather than at a single point in time. The customer receives value based on the amount of work that has been completed towards the delivery of the completed project. The most reliable measure of progress is the cost incurred towards delivery of the completed project. Therefore, the input method provides the most reliable method to measure progress. Revenue recognition begins when work has commenced. Costs include all direct material and labor costs related to contract performance, subcontractor costs, indirect labor, and fabrication plant overhead costs, which are charged to contract costs as incurred. Revenues relating to changes in the scope of a contract are recognized when we and a customer or general contractor have agreed on both the scope and price of changes, the work has commenced, and that realization of revenue is assured beyond a reasonable doubt. Revisions in estimates during the course of contract work are reflected in the accounting period in which the facts requiring the revision become known. Provisions for estimated losses on uncompleted contracts are made in the period in which a loss on a contract becomes determinable.

Convertible Instruments

We evaluate and account for conversion options embedded in convertible instruments in accordance with ASC 815, *Derivatives and Hedging Activities*. Applicable GAAP requires companies to bifurcate conversion options from their host instruments and account for them as free standing derivative financial instruments according to certain criteria. The criteria include circumstances in which (a) the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract, (b) the hybrid instrument that embodies both the embedded derivative instrument and the host contract is not remeasured at fair value under other GAAP with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded derivative instrument would be considered a derivative instrument. A key component of this analysis includes an calculation of fair value of the embedded derivative instrument, which is performed using inputs that require estimates that management believes are reasonable, such as the projected risk free and volatility rates. These estimates impacting fair value could materially differ if unanticipated events impacting inputs to the fair value such as the risk free or volatility rates unfold differently than anticipated.

Income Taxes

Our annual tax rate is based on our income, statutory tax rates, exchange rates and tax planning opportunities available to us in the various jurisdictions in which we operate. Tax laws are complex and subject to different interpretations by the taxpayer and respective governmental taxing authorities. Significant judgment is required in determining our tax expense and in evaluating our tax positions, including evaluating uncertainties under ASC No. 740, “Income Taxes” (“ASC 740”).

We review our tax positions quarterly and adjust the balances as new information becomes available. Deferred income tax assets represent amounts available to reduce income taxes payable on taxable income in future years. Such assets arise because of temporary differences between the financial reporting and tax bases of assets and liabilities, as well as from net operating loss and tax credit carryforwards. We evaluate the recoverability of these future tax deductions by assessing the adequacy of future expected taxable income from all sources, including reversal of taxable temporary differences, forecasted operating earnings and available tax planning strategies. These sources of income inherently rely heavily on estimates. To provide insight, we use our historical experience and our short and long-range business forecasts. We believe it is more likely than not that a portion of the deferred income tax assets may expire unused and have established a valuation allowance against them. Although realization is not assured for the remaining deferred income tax assets, we believe it is more likely than not the deferred tax assets will be fully recoverable within the applicable statutory expiration periods. However, deferred tax assets could be reduced in the near term if our estimates of taxable income are significantly reduced.

We recognize deferred tax assets and liabilities for the expected future tax consequences of transactions and events. Under this method, deferred tax assets and liabilities are determined based on the difference between the book basis and the tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. If necessary, deferred tax assets are reduced by a valuation allowance to an amount that is determined to be more likely than not recoverable. We must make significant estimates and assumptions about future taxable income and future tax consequences when determining the amount of the valuation allowance. The additional guidance provided by ASC 740, clarifies the accounting for uncertainty in income taxes recognized in the financial statements. Expected outcomes of current or anticipated tax examinations, refund claims and tax-related litigation and estimates regarding additional tax liability (including interest and penalties thereon) or refunds resulting therefrom will be recorded based on the guidance provided by ASC 740 to the extent applicable.

We recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the consolidated financial statements from such a position are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate resolution. These assessments of uncertain tax positions contain judgments related to the interpretation of tax regulations in the jurisdictions in which we transact business. The judgments and estimates made at a point in time may change based on the outcome of tax audits, expiration of statutes of limitations, as well as changes to, or further interpretations of, tax laws and regulations.

In relation to tax effects for accumulated other comprehensive income ("OCI"), our policy is to release the tax effects of amounts reclassified from accumulated OCI to pre-tax income (loss) from continuing operations. Any remaining tax effect in accumulated OCI is released following a portfolio approach.

Refer to Note 12. Income Taxes to our Consolidated Financial Statements included in this Annual Report on Form 10-K for further information, which is incorporated herein by reference.

Acquisitions

The Company’s acquisitions are accounted for using the acquisition method of accounting, which requires, among other things, that assets acquired and liabilities assumed be recognized at their estimated fair values as of the acquisition date. Estimates of fair value included in the Consolidated Financial Statements, in conformity with ASC 820, *Fair Value Measurements and Disclosures*, represent the Company’s best estimates and valuations developed, when needed, with the assistance of independent appraisers or, where such valuations have not yet been completed or are not available, industry data and trends and by reference to relevant market rates and transactions. Such estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Company. Accordingly, the Company cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially.

Goodwill and Intangible Assets

Goodwill and intangible assets deemed to have indefinite lives are not amortized, but, rather, tested for impairment. We test goodwill and indefinite lived intangibles for impairment at least annually in the fourth quarter (October 1st) or when factors indicate potential impairment (i.e., events occur or circumstances change that indicate the potential impairment under ASC 350, *Intangibles - Goodwill and Other* ("ASC 350"). In addition to the foregoing, management reviews goodwill and intangible assets for possible impairment whenever events or circumstances indicate that the carrying amounts of assets may not be recoverable. The factors that we consider important, and which could trigger an impairment review, include, but are not limited to: a more likely than not expectation of selling or disposing all, or a portion, of a reporting unit; a significant decline in the market value of our common stock or debt securities for a sustained period; a material adverse change in economic, financial market, industry or sector trends; a material failure to achieve operating results relative to historical levels or projected future levels; and significant changes in operations or business strategy. Intangible assets that have finite lives are amortized over their estimated useful lives and are subject to the impairment provisions of ASC 360, *Property, plant, and equipment* ("ASC 360").

We elect to utilize a qualitative assessment to evaluate whether it is more likely than not that the fair value of a reporting unit or indefinite-lived intangible asset is less than its carrying value, and if so, a quantitative test is performed. The quantitative evaluation for impairment of indefinite lived intangibles follows the same approach as described with goodwill above and consists of a comparison of the fair value of an intangible asset with its carrying amount. If the carrying amount of the intangible asset exceeds its fair value, an impairment loss shall be recognized in an amount equal to the excess.

Under the quantitative test, we estimate the fair value of a reporting unit, which requires various assumptions including projections of future cash flows, perpetual growth rates and discount rates. The assumptions about future cash flows and growth rates are based on our assessment of a number of factors, including the reporting unit's recent performance against budget, performance in the market that the reporting unit serves, and industry and general economic data from third-party sources. Discount rate assumptions are based on an assessment of the risk inherent in those future cash flows. Changes to the underlying businesses could affect the future cash flows, which in turn could affect the fair value of the reporting unit. Further, we assess the current market capitalization, forecasts and the amount by which the fair values exceeded the carrying values. If the carrying amount of the reporting unit exceeds the fair value, an impairment loss shall be recognized in an amount equal to the excess.

Based on qualitative assessments performed as of October 1, 2023, management determined it was more likely than not that the fair value of its reporting units and the fair value of the indefinite-lived intangible assets exceeded their carrying values, and, as such, no impairment was required.

Intangible assets not subject to amortization (i.e. indefinite lived intangibles) consist of certain television broadcast licenses. Intangible assets subject to amortization consists of certain trade names, customer contracts and developed technology. These finite lived intangible assets are amortized based on their estimated useful lives. Such assets are subject to the impairment provisions of ASC 360, wherein impairment is recognized and measured only if there are events and circumstances that indicate that the carrying amount may not be recoverable. The carrying amount is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use of the asset group. An impairment loss is recorded to the extent the carrying amount of the asset or asset group exceeds the fair value and is not recoverable.

Refer to Note 8. Goodwill and Intangibles, Net, to our Consolidated Financial Statements included in this Annual Report on Form 10-K for additional information on goodwill and intangible assets, including any intangible impairments recorded during the years presented, which is incorporated herein by reference.

Related Party Transactions

For a discussion of our Related Party Transactions, refer to Note 17. Related Parties to our Consolidated Financial Statements included in this Annual Report on Form 10-K, which is incorporated herein by reference.

Special Note Regarding Forward-Looking Statements

This Annual Report on Form 10-K contains or incorporates a number of "forward-looking statements" within the meaning of Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. Such statements are based on current expectations, and are not strictly historical statements. In some cases, you can identify forward-looking statements by terminology such as "if," "may," "should," "believe," "anticipate," "future," "forward," "potential," "estimate," "opportunity," "goal," "objective," "growth," "outcome," "could," "expect," "intend," "plan," "strategy," "provide," "commitment," "result," "seek," "pursue," "ongoing," "include" or in the negative of such terms or comparable terminology. These forward-looking statements inherently involve certain risks and uncertainties and are not guarantees of performance, results, or the creation of stockholder value, although they are based on our current plans or assessments which we believe to be reasonable as of the date hereof.

Factors that could cause actual results, events and developments to differ include, without limitation: the ability of our subsidiaries (including, target businesses following their acquisition) to generate sufficient net income and cash flows to make upstream cash distributions, capital market conditions, our and our subsidiaries' ability to identify any suitable future acquisition opportunities, efficiencies/cost avoidance, cost savings, income and margins, growth, economies of scale, combined operations, future economic performance, conditions to, and the timetable for, completing the integration of financial reporting of acquired or target businesses with INNOVATE or the applicable subsidiary of INNOVATE, completing future acquisitions and dispositions, litigation, potential and contingent liabilities, management's plans, changes in regulations and taxes.

We claim the protection of the safe harbor for forward-looking statements contained in the Private Securities Litigation Reform Act of 1995 for all forward-looking statements.

Forward-looking statements are not guarantees of performance. You should understand that the following important factors, in addition to those discussed under the section entitled "Risk Factors" in this Annual Report on Form 10-K and the documents incorporated herein by reference, could affect our future results and could cause those results or other outcomes to differ materially from those expressed or implied in the forward-looking statements. You should also understand that many factors described under one heading below may apply to more than one section in which we have grouped them for the purpose of this presentation. As a result, you should consider all of the following factors, together with all of the other information presented herein, in evaluating our business and that of our subsidiaries.

Our actual results or other outcomes may differ from those expressed or implied by forward-looking statements contained herein due to a variety of important factors, including, without limitation, the following:

- the recent passing of our Chief Executive Officer, President and Director and the successful transition of his management responsibilities;
- our dependence on distributions from our subsidiaries to fund our operations and payments on our obligations;
- the impact on our business and financial condition of our substantial indebtedness and the significant additional indebtedness and other financing obligations we may incur;
- the impact of covenants in the Indenture governing INNOVATE's 2026 Senior Secured Notes, 2026 Convertible Notes, CGIC Unsecured Note and Revolving Credit Agreement, the Certificates of Designation governing INNOVATE's Preferred Stock and all other subsidiary debt obligations as summarized in Note 11. Debt Obligations to our Consolidated Financial Statements included in this Annual Report on Form 10-K and future financing agreements on our ability to operate our business and finance our pursuit of acquisition opportunities;
- our possible inability to generate sufficient liquidity, margins, earnings per share, cash flow and working capital from our operating segments;
- our dependence on certain key personnel;
- bank failures or other similar events that could adversely affect our and our customers' and vendors' liquidity and financial performance;
- our possible inability to hire and retain qualified executive management, sales, technical and other personnel;
- the potential for, and our ability to, remediate future material weaknesses in our internal controls over financial reporting;
- the impact of recent supply chain disruptions, labor shortages and increases in overall price levels, including in transportation costs;
- the impact of a higher interest rate environment;
- the effects related to or resulting from military actions in Israel and the Gaza Strip and Russia's military action in Ukraine, including the imposition of additional sanctions and export controls, as well as the broader impact to financial markets and the global macroeconomic and geopolitical environment;
- increased competition in the markets in which our operating segments conduct their businesses;
- limitations on our ability to successfully identify any strategic acquisitions or business opportunities and to compete for these opportunities with others who have greater resources;
- our ability to effectively increase the size of our organization, if needed, and manage our growth;
- the impact of expending significant resources in considering acquisition targets or business opportunities that are not consummated;
- our expectations and timing with respect to our ordinary course acquisition activity and whether such acquisitions are accretive or dilutive to stockholders;
- the effect any interests our officers, directors, stockholders and their respective affiliates may have in certain transactions in which we are involved;
- uncertain global economic conditions in the markets in which our operating segments conduct their businesses;
- the impact of catastrophic events, including natural disasters, pandemic illness and the outbreak of war, or acts of terrorism;
- potential impacts on our business resulting from climate change, greenhouse gas regulations, and the impact of climate change-related changes in the frequency and severity of weather patterns;
- the impact of additional material charges associated with our oversight of acquired or target businesses and the integration of our financial reporting;
- tax consequences associated with our acquisition, holding and disposition of target companies and assets;
- our ability to remain in compliance with the listing standards of the New York Stock Exchange;
- the ability of our operating segments to attract and retain customers;
- our expectations regarding the timing, extent and effectiveness of our cost reduction initiatives and management's ability to moderate or control discretionary spending;
- management's plans, goals, forecasts, expectations, guidance, objectives, strategies and timing for future operations, acquisitions, synergies, asset dispositions, fixed asset and goodwill impairment charges, tax and withholding expense, selling, general and administrative expenses, product plans, performance and results;
- management's assessment of market factors and competitive developments, including pricing actions and regulatory rulings;
- our expectations and timing with respect to any strategic dispositions and sales of our operating subsidiaries, or businesses, including the shut-down of our Network business by our Spectrum segment, that we may make in the future and the effect of any such dispositions or sales on our results of operations;
- the possibility of indemnification claims arising out of divestitures of businesses; and
- our possible inability to raise additional capital when needed or refinance our existing debt, on attractive terms, or at all.

Infrastructure / DBM Global Inc.

Our actual results or other outcomes of DBMG, and, thus, our Infrastructure segment, may differ from those expressed or implied by forward-looking statements contained herein due to a variety of important factors, including, without limitation, the following:

- adverse impacts from weather affecting DBMG's performance and timeliness of completion of projects, which could lead to increased costs and affect the quality, costs or availability of, or delivery schedule for, equipment, components, materials, labor or subcontractors;
- cost overruns on fixed-price or similar contracts or failure to receive timely or proper payments on cost-reimbursable contracts, whether as a result of improper estimates, performance, disputes, or otherwise;
- uncertain timing and funding of new contract awards, as well as project cancellations;
- potential impediments and limitations on our ability to complete ordinary course acquisitions in anticipated time frames or at all;
- changes in the costs or availability of, or delivery schedule for, equipment, components, materials, labor or subcontractors;
- the impact of inflationary pressures;
- adverse outcomes of pending claims or litigation or the possibility of new claims or litigation, and the potential effect of such claims or litigation on DBMG's business, financial condition, results of operations or cash flow;
- risks associated with labor productivity, including performance of subcontractors that DBMG hires to complete projects;
- its ability to realize cost savings from expected performance of contracts, whether as a result of improper estimates, performance, or otherwise;
- its ability to settle or negotiate unapproved change orders and claims;
- fluctuating revenue resulting from a number of factors, including the cyclical nature of the individual markets in which our customers operate;
- our possible inability to raise additional capital when needed or refinance our existing debt, on attractive terms, or at all; and
- lack of necessary liquidity to provide bid, performance, advance payment and retention bonds, guarantees, or letters of credit securing DBMG's obligations under bids and contracts or to finance expenditures prior to the receipt of payment for the performance of contracts.

Life Sciences / Pansend Life Sciences, LLC

Our actual results or other outcomes of Pansend Life Sciences, LLC, and, thus, our Life Sciences segment, may differ from those expressed or implied by forward-looking statements contained herein due to a variety of important factors, including, without limitation, the following:

- our Life Sciences segment's ability to invest in development stage companies;
- our Life Sciences segment's ability to develop products and treatments related to its portfolio companies;
- medical advances in healthcare and biotechnology;
- governmental regulation in the healthcare industry; and
- our Life Science's segment possible inability to raise additional capital when needed or refinance its existing debt, on attractive terms, or at all.

Spectrum / HC2 Broadcasting Holdings Inc.

Our actual results or other outcomes of Broadcasting, and, thus, our Spectrum segment, may differ from those expressed or implied by forward-looking statements contained herein due to a variety of important factors, including, without limitation, the following:

- our Spectrum segment's ability to operate in highly competitive markets and maintain market share;
- our Spectrum segment's ability to effectively implement its business strategy or be successful in the operation of its business;
- our Spectrum segment's possible inability to raise additional capital when needed or refinance its existing debt, on attractive terms, or at all;
- new and growing sources of competition in the broadcasting industry; and
- FCC regulation of the television broadcasting industry.

We caution the reader that undue reliance should not be placed on any forward-looking statements, which speak only as of the date of this document. Neither we nor any of our subsidiaries undertake any duty or responsibility to update any of these forward-looking statements to reflect events or circumstances after the date of this document or to reflect actual outcomes, except as required by applicable law.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

Not applicable.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The report of the independent registered public accounting firm and consolidated financial statements listed in the accompanying index are included in Item 15 of this report. Refer to the Index to the Consolidated Financial Statements on page F-1 of this Annual Report Form 10-K, which is incorporated herein by reference.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

ITEM 9A. CONTROLS AND PROCEDURES

Evaluation of Disclosure Controls and Procedures

Our management evaluated, with the participation of our interim Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures as defined in Rule 13a-15(e) under the Securities Exchange Act of 1934 as amended (the "Exchange Act") as of the end of the period covered by this report. Based on this evaluation, our interim Chief Executive Officer and Chief Financial Officer have concluded that, as of December 31, 2023, our disclosure controls and procedures were effective. Disclosure controls and procedures mean our controls and other procedures that are designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms. Disclosure controls and procedures include, without limitation, controls and procedures designed to ensure that information required to be disclosed by us in our reports that we file or submit under the Exchange Act is accumulated and communicated to our management, including our principal executive officer and principal financial officer, as appropriate to allow timely decisions regarding required disclosure.

Management's Report on Internal Control Over Financial Reporting

Management is responsible for establishing and maintaining adequate internal control over financial reporting as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act. The Company's internal control over financial reporting is designed to provide reasonable assurance as to the reliability of its financial reporting and the preparation of financial statements for external purposes in accordance with U.S. GAAP. Because of the inherent limitations in any internal control, no matter how well designed, misstatements may occur and not be prevented or detected. Accordingly, even effective internal control over financial reporting can provide only reasonable assurance with respect to financial statement preparation. Further, the evaluation of the effectiveness of internal control over financial reporting described below was made as of a specific date, and continued effectiveness in future periods is subject to the risks that controls may become inadequate because of changes in conditions or that the degree of compliance with the policies and procedures may decline.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2023. This assessment was based on updated criteria for effective internal control over financial reporting set forth by the Committee of Sponsoring Organizations of the Treadway Commission Internal Control-Integrated Framework (2013). Based on this evaluation, our management concluded that our internal control over financial reporting was effective as of December 31, 2023.

Auditor Attestation Report

Our independent registered public accounting firm has issued an attestation report on the effectiveness of our internal control over financial reporting, which is on page F-4 of this report.

Changes in Internal Control over Financial Reporting

There have been no changes in our internal control over financial reporting that occurred during the quarter ended December 31, 2023 that have materially affected, or are reasonably likely to materially affect, our internal control over financial reporting.

ITEM 9B. OTHER INFORMATION

None.

ITEM 9C. DISCLOSURE REGARDING FOREIGN JURISDICTIONS THAT PREVENT INSPECTIONS

None.

PART III

ITEM 10. DIRECTORS, EXECUTIVE OFFICERS AND CORPORATE GOVERNANCE

Information regarding this item will be set forth in our definitive proxy statement for our 2024 meeting of stockholders ("2024 Proxy Statement") and is incorporated herein by reference.

Code of Conduct

We have adopted a Code of Conduct applicable to all directors, officers and employees, including the Chief Executive Officer, senior financial officers and other persons performing similar functions. The Code of Conduct is a statement of business practices and principles of behavior that support our commitment to conducting business in accordance with the highest standards of business conduct and ethics. Our Code of Conduct covers, among other things, compliance resources, conflicts of interest, compliance with laws, rules and regulations, internal reporting of violations and accountability for adherence to the Code of Conduct. A copy of the Code of Conduct is available under the "Investor Relations-Corporate Governance" section of our website at www.innovatecorp.com. Any amendment of the Code of Conduct or any waiver of its provisions for a director or executive officer must be approved by the Board or a duly authorized committee thereof. We intend to post on our website all disclosures that are required by law or the rules of the NYSE concerning any amendments to, or waivers from, any provision of the Code of Conduct.

ITEM 11. EXECUTIVE COMPENSATION

Information regarding this item will be set forth in our 2024 Proxy Statement and is incorporated herein by reference.

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT AND RELATED STOCKHOLDER MATTERS

Information regarding this item will be set forth in our 2024 Proxy Statement and is incorporated herein by reference.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS, AND DIRECTOR INDEPENDENCE

Information regarding this item will be set forth in our 2024 Proxy Statement and is incorporated herein by reference.

ITEM 14. PRINCIPAL ACCOUNTANT FEES AND SERVICES

Information regarding principal accountant fees and services will be set forth in our 2024 Proxy Statement and is incorporated herein by reference.

PART IV

ITEM 15. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

(a) *List of Documents Filed as Part of This Report:*

1) Index to Consolidated Financial Statements

2) Financial Statement Schedules

Financial statement schedules have been omitted since they either are not required, not applicable, or the information is otherwise included.

(3) Exhibit Index

The following is a list of exhibits filed (including those incorporated by reference) or furnished as part of this Annual Report on Form 10-K.

Exhibit Number	Description
2.1	Fourth Amended and Restated Limited Liability Company Agreement of Global Marine Holdings, LLC, dated as of November 30, 2017, by and among Global Marine Holdings, LLC and the Members party thereto (incorporated by reference to Exhibit 2.1 to INNOVATE's Current Report on Form 8-K, filed on November 30, 2017) (File No. 001-35210).
2.2	Merger Agreement, dated as of May 1, 2018, by and among Janssen Biotech, Inc., Dogfish Merger Sub, Inc., Benevir Biopharm, Inc., and Shareholder Representative Services LLC, as holder representative (incorporated by reference to Exhibit 10.1 to INNOVATE's Current Report on Form 8-K, filed on May 3, 2018) (File No. 001-35210).
2.3	Share Purchase Agreement dated January 30, 2020, by and among New Saxon 2019 Limited, Trafalgar Acquisition Co., Ltd. and Global Marine Holdings, Limited (solely for purposes of Section 2.04(a), Section 6.01, Section 6.02, Section 6.03, Section 6.07 and Article X) (incorporated by reference to Exhibit 2.1 to INNOVATE's Current Report on Form 8-K, filed on January 30, 2020) (File No. 001-35210).
2.4	Agreement and Plan of Merger, dated as of December 30, 2020, by and among Beyond6, Inc., Greenfill Inc., Greenfill Merger, Inc., and INNOVATE Corp. (f/k/a HC2 Holdings, Inc.), solely in its capacity as the Stockholders' Representative (incorporated by reference to Exhibit 2.1 on INNOVATE's Current Report on Form 8-K, filed December 31, 2020) (File No. 001-35210).
2.5	First Amendment to Agreement and Plan of Merger, dated as of January 15, 2021, by and among Beyond6, Inc., Greenfill Inc., Greenfill Merger, Inc., and INNOVATE Corp (f/k/a HC2 Holdings, Inc.), solely in its capacity as the Stockholders' Representative (incorporated by reference to Exhibit 2.2 to the Current Report on Form 8-K filed by INNOVATE on January 19, 2021) (File No. 001-35210)
2.6	Membership Interest Purchase Agreement, dated March 12, 2021 by and among DBM Global Inc., Bridge Fabrication Banker Holdings LLC, The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009, Chesley F. McPhatter, III, Richard Plant and Bridge Fabrication Banker Holdings LLC (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by INNOVATE on March 15, 2021) (File No. 001-35210)
2.7	First Amendment to Membership Interest Purchase Agreement, dated May 27, 2021 by and among DBM Global Inc., Bridge Fabrication Banker Holdings LLC, The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009, Chesley F. McPhatter, III, Richard Plant and Bridge Fabrication Banker Holdings LLC (incorporated by reference to Exhibit 2.2 to the Current Report on Form 8-K filed by INNOVATE on May 27, 2021) (File No. 001-35210)
2.8	Stock Purchase Agreement, dated March 26, 2021, by and among INNOVATE Corp 2 (f/k/a HC2 Holdings 2, Inc.), Continental Insurance Group, Ltd. and Continental General Holdings LLC (incorporated by reference to Exhibit 2.1 to the Current Report on Form 8-K filed by INNOVATE on March 29, 2021) (File No. 001-35210)
3.1	Second Amended and Restated Certificate of Incorporation of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 3.1 to INNOVATE's Form 8-A, filed on June 20, 2011) (File No. 001-35210).

3.2	Certificate of Ownership and Merger Merging PTGI Name Change, Inc. into Primus Telecommunications Group, Incorporated (incorporated by reference to Exhibit 3.1 to INNOVATE's Current Report on Form 8-K, filed on October 18, 2013) (File No. 001-35210).
3.3	Certificate of Ownership and Merger Merging HC2 Name Change, Inc. into PTGI Holding, Inc. (incorporated by reference to Exhibit 3.1 to INNOVATE's Current Report on Form 8-K, filed on April 11, 2014) (File No. 001-35210).
3.4	Certificate of Amendment to Second Amended and Restated Certificate of Incorporation of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 3.1 to INNOVATE's Current Report on Form 8-K, filed on June 18, 2014) (File No. 001-35210).
3.5	Certificate of Amendment No. 2 to Second Amended and Restated Certificate of Incorporation of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 3.1 on INNOVATE's Current Report on Form 10-K, filed on November 23, 2020 (File No. 001-35210).
3.6	Certificate of Amendment to Second Amended and Restated Certificate of Incorporation of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.), as filed with the Secretary of State of Delaware on August 18, 2021, with an effective date of September 20, 2021 (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on August 19, 2021) (File No. 001-35210)
3.7	Fourth Amended and Restated By-Laws of INNOVATE Corp (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 3.1 to INNOVATE's Current Report on Form 8-K, filed on February 25, 2019) (File No. 001-35210).
3.8	Amendment #1 to Fourth Amended and Restated By-Laws of INNOVATE Corp., (f/k/a HC2 Holdings Inc.) effective September 20, 2021 (incorporated by reference to Exhibit 3.2 to the Current Report on Form 8-K filed on August 19, 2021) (File No. 021-35210)
3.9	Certificate of Designations of Series B Preferred Stock of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) dated August 30, 2021 (incorporated by reference to Exhibit 3.1 to the Current Report on Form 8-K filed on August 30, 2021) (File No. 001-35210)
4.1	Indenture, dated as of November 20, 2018, by and among INNOVATE Corp. (f/k/a HC2 Holdings, Inc.), the guarantors party thereto and U.S. Bank National Association (incorporated by reference to Exhibit 4.1 to INNOVATE's Current Report on Form 8-K, filed on November 21, 2018) (File No. 001-35210).
4.2	Amended and Restated Certificate of Designation of Series A Fixed-to-Floating Rate Perpetual Preferred Stock of DBM Global Intermediate Holdco Inc. (incorporated by reference to Exhibit 4.3 to the Current Report on Form 8-K filed by INNOVATE on July 7, 2021) (File No. 001-35210)
4.3	Secured Note dated October 24, 2019, by and among HC2 Station, HC2 LPTV, HC2 Broadcasting Inc. ("HC2 Broadcasting"), HC2 Network Inc. ("HC2 Network") (collectively the "Subsidiary Borrowers"), HC2 Broadcasting Intermediate Holdings Inc. ("HC2 Intermediate") (the "Intermediate Parent"), HC2 Broadcasting Holdings (the "Parent Borrower" and, together with the Intermediate Parent and the Subsidiary Borrowers, the "Borrowers"), and MSD PCOF Partners XVIII, LLC ("MSD") (incorporated by reference to Exhibit 4.12 to INNOVATE's Annual Report on Form 10-K, filed on March 16, 2020) (File No. 001-35210).
4.4	Amended and Restated Secured Note dated October 24, 2019, by and among HC2 Station, HC2 LPTV, HC2 Broadcasting, HC2 Network (collectively, the "Subsidiary Borrowers"), HC2 Intermediate (the "Intermediate Parent"), HC2 Broadcasting Holdings (the "Parent Borrower" and, together with the Intermediate Parent and the Subsidiary Borrowers, the "Borrowers", Great American Life Insurance Company ("GALIC") and Great American Insurance Company ("GAIC"), (collectively, the "Subsidiary Borrowers"), HC2 Intermediate (the "Intermediate Parent"), HC2 Broadcasting Holdings (the "Parent Borrower" and, together with the Intermediate Parent and the Subsidiary Borrowers, the "Borrowers", Great American Life Insurance Company ("GALIC") and Great American Insurance Company ("GAIC") (incorporated by reference to Exhibit 4.13 to INNOVATE's Annual Report on Form 10-K, filed on March 16, 2020) (File No. 001-35210).
4.5	First Omnibus Amendment to Secured Notes and Intercreditor Agreement by and among Station Group, LPTV, Broadcasting, Network, and HC2 Broadcasting Inc., Intermediate Parent, Parent Borrower, and MSD PCOF Partners, XVIII, LLC ("MSD"), GALIC and GAIC (incorporated by reference to Exhibit 4.1 to INNOVATE's Quarterly Report on Form 10-Q, filed on May 11, 2020) (File No. 001-35210)
4.6	First Supplemental Indenture dated August 19, 2020, between INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) and U.S. Bank National Association (incorporated by reference to Exhibit 4.1 of INNOVATE's Quarterly Report on Form 10-Q, filed on November 9, 2020) (File No. 001-35210).
4.7	Indenture governing the 8.500% senior secured notes due 2026, dated as of February 1, 2021, by and among INNOVATE Corp. (f/k/a HC2 Holdings, Inc.), the guarantors party thereto and U.S. Bank National Association (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed by INNOVATE on February 1, 2021) (File No. 001-35210)
4.8	Form of 8.500% senior secured notes due 2026 (included in exhibit 4.1) (incorporated by reference to Exhibit 4.2 to the Current Report on Form 8-K filed by INNOVATE on February 1, 2021) (File No. 001-35210)
4.9	Indenture governing the 7.5% convertible senior notes due 2026, dated as of February 1, 2021, by and between INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) and U.S. Bank National Association (incorporated by reference to Exhibit 4.3 to the Current Report on Form 8-K filed by INNOVATE on February 1, 2021) (File No. 001-35210)

4.10	Form of 7.5% convertible senior notes due 2026 (included in exhibit 4.3) (incorporated by reference to Exhibit 4.4 to the Current Report on Form 8-K filed by INNOVATE on February 1, 2021) (File No. 001-35210)
4.11	Certificate of Designation of Series A-3 Convertible Participating Preferred Stock of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed by INNOVATE on July 7, 2021) (File No. 001-35210)
4.12	Certificate of Designation of Series A-4 Convertible Participating Preferred Stock of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 4.2 to the Current Report on Form 8-K filed by INNOVATE on July 7, 2021) (File No. 001-35210)
4.13	Tax Benefits Preservation Plan, dated August 30, 2021 (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed on August 30, 2021) (File No. 001-35210)
4.14	Description of the Registrant's Securities Registered Pursuant to Section 12 of the Securities Exchange Act of 1934 (incorporated by reference to Exhibit 4.16 to the Annual Report on Form 10-K filed on March 9, 2022) (File No. 001-35210)
4.15	Agreement Re: Secured Notes, dated January 22, 2019, by and among HC2 Station, HC2 LPTV and the Institutional Investors (incorporated by reference to Exhibit 10.1 to INNOVATE's Current Report on Form 8-K, filed on January 23, 2019) (File No. 001-35210).
4.16	Tax Benefits Preservation Plan, dated as of April 1, 2023, by and between INNOVATE Corp. and Computershare Trust Company, N.A. (incorporated by reference to Exhibit 4.1 to the Current Report on Form 8-K filed by INNOVATE on April 3, 2023) (File No. 001-35210).
10.1^	INNOVATE Corp. (f/k/a HC2 Holdings Inc.) 2014 Omnibus Equity Award Plan (incorporated by reference to Exhibit A to INNOVATE's Definitive Proxy Statement, filed on April 30, 2014) (File No. 001-35210)
10.2^	Form of Non-Qualified Stock Option Award Agreement (incorporated by reference to Exhibit 10.1 on INNOVATE's Current Report on Form 8-K, filed on September 22, 2014) (File No. 001-35210)
10.3^	Form of Restricted Stock Award Agreement (incorporated by reference to Exhibit 10.2 on INNOVATE's Current Report on Form 8-K, filed on September 22, 2014) (File No. 001-35210)
10.4^	Amended and Restated Employment Agreement, effective as of November 25, 2020, by and between INNOVATE Corp (f/k/a HC2 Holdings, Inc.) and Wayne Barr, Jr. (incorporated by reference to Exhibit 10.1 on INNOVATE's Current Report on Form 8-K, filed on November 30, 2020) (File No. 001-35210).
10.5^	Employment Agreement dated as of March 1, 2015, by and between INNOVATE Corp (f/k/a HC2 Holdings, Inc.) and Suzi R. Herbst (incorporated by reference to Exhibit 10.55 to INNOVATE's Annual Report on Form 10-K, filed on March 9, 2017) (File No. 001-35210).
10.6^	Employment Agreement dated as of September 11, 2017, by and between INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) and Joseph Ferraro (incorporated by reference to Exhibit 10.1 to INNOVATE's Quarterly Report on Form 10-Q, filed on November 8, 2017) (File No. 001-35210).
10.7^	Employment Agreement, dated May 20, 2015, by and between INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) and Michael Sena (incorporated by reference to Exhibit 10.2 on INNOVATE's Quarterly Report on Form 10-Q, filed on August 10, 2015) (File No. 001-35210).
10.8^	Form of Employee Nonqualified Option Award Agreement (incorporated by reference to Exhibit 10.4 on INNOVATE's Quarterly Report on Form 10-Q, filed on August 9, 2016) (File No. 001-35210).
10.9^	Revised Form of Indemnification Agreement of INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) (incorporated by reference to Exhibit 10.1 on INNOVATE's Quarterly Report on Form 10-Q, filed on November 9, 2016) (File No. 001-35210).
10.10^	Form of Restricted Stock Unit Award Agreement (incorporated by reference to Exhibit 10.1 to INNOVATE's Current Report on Form 8-K, filed on June 14, 2017) (File No. 001-35210).
10.11^	INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) Amended and Restated 2014 Omnibus Equity Award Plan (incorporated by reference to Exhibit B to the INNOVATE Definitive Proxy Statement filed on April 26, 2017) (File No. 001-35210)
10.12	Securities Purchase Agreement dated as of June 27, 2017 among DTV Holding Inc., John N. Kyle II, Kristina C. Bruni, King Forward, Inc., Equity Trust Co FBO John N. Kyle, Tiger Eye Licensing L.L.C., Bella Spectra Corporation, Kim Ann Dagen and Michael S. Dagen, Trustees of the Kim Ann Dagen Revocable Living Trust Agreement dated March 2, 1999, Madison Avenue Ventures, LLC, Paul Donner, Reeves Callaway, Don Shalhub, Shalhub Medical Investments PA, Tipi Sha, LLC, Luis O. Suau, Irwin Podhajser and Humberto Garriga (incorporated by reference to Exhibit 10.1 to INNOVATE's Current Report on Form 8-K, filed on June 28, 2017) (File No. 001-35210).
10.13	Investor Rights Agreement dated as of June 27, 2017 between DTV Holding Inc., DTV America Corporation and other signatories party thereto (incorporated by reference to Exhibit 10.2 to INNOVATE's Current Report on Form 8-K, filed on June 28, 2017) (File No. 001-35210).

10.14	Asset Purchase Agreement dated as of June 27, 2017 among DTV Holding Inc., King Forward, Inc., Tiger Eye Broadcasting Corporation, Tiger Eye Licensing L.L.C. and Bella Spectra Corporation (incorporated by reference to Exhibit 10.3 to INNOVATE's Current Report on Form 8-K, filed on June 28, 2017) (File No. 001-35210).
10.15^	INNOVATE Corp (f/k/a HC2 Holdings, Inc.) Second Amended and Restated 2014 Omnibus Equity Award Plan (incorporated by reference to Exhibit A to INNOVATE's Definitive Proxy Statement, filed on April 30, 2018) (File No. 001-35210).
10.16	Second Amended & Restated Limited Liability Company Agreement of Pansend Life Sciences, LLC, dated as of September 20, 2017, by and among INNOVATE Corp 2 (f/k/a HC2 Holdings 2, Inc.), David Present and Cherine Plumaker (incorporated by reference to Exhibit 10.2 to INNOVATE's Current Report on Form 8-K, filed on May 3, 2018) (File No. 001-35210).
10.17	Securities Purchase Agreement, by and between DBM Global Inc. and DBM Global Intermediate Holdco Inc., dated November 30, 2018 (incorporated by reference to Exhibit 2.3 to INNOVATE's Current Report on Form 8-K, filed on December 4, 2018) (File No. 001-35210).
10.18	Ninth Amended and Restated Agreement Re: Secured Notes dated October 24, 2019, among HC2 Station, HC2 LPTV, HC2 Network, HC2 Broadcasting, GALIC, GAIC and MSD (incorporated by reference to Exhibit 10.38 to INNOVATE's Annual Report on Form 10-K, filed on March 16, 2020) (File No. 001-35210).
10.19	Investment Agreement, dated as of September 9, 2020, by and between INNOVATE Corp (f/k/a HC2 Holdings, Inc.) and Lancer Capital, LLC (incorporated by reference to Exhibit 10.1 on INNOVATE's Current Report on Form 8-K, filed on September 9, 2020 (File No. 001-35210).
10.20	Form of Registration Rights Agreement by and between INNOVATE Corp (f/k/a HC2 Holdings, Inc.) and Lancer Capital LLC (incorporated by reference to Exhibit 10.2 (included in Exhibit 10.1) on INNOVATE's Current Report on Form 8-K, filed on September 9, 2020 (File No. 001-35210).
10.21	Third Omnibus Amendment to Secured Notes and Second Amendment to Intercreditor Agreement by and among Station Group, LPTV, Broadcasting, Network, and HC2 Broadcasting Inc., Intermediate Parent, Parent Borrower, and MSD PCOF Partners, XVIII, LLC ("MSD"), GALIC and GAIC (incorporated by reference to Exhibit 10.3 on INNOVATE's Current Report on Quarterly Report on Form 10-Q filed on November 9, 2020) (File No. 001-35210).
10.22	Credit Agreement, dated as of May 27, 2021, by and among DBM Global Inc., the other Borrowers listed on Schedule 1.1 thereto, the Lenders, which are party thereto from time to time and UMB Bank, n.a., a national banking association, as Letter of Credit Issuer and as Administrative Agent (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on May 27, 2021) (File No. 001-35210),
10.23	INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) Preferred Support Agreement, dated July 1, 2021, by and among INNOVATE Corp., Continental General Insurance Company and Continental General Holdings LLC (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on July 1, 2021) (File No. 001-35210)
10.24	DBM Common Support Agreement, dated July 1, 2021, by and among INNOVATE Corp. (f/k/a HC2 Holdings, Inc.), Continental General Insurance Company and Continental General Holdings LLC (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by INNOVATE on July 1, 2021 (File No. 001-35210),
10.25	Form of Exchange Agreement, dated July 1, 2021, by and among INNOVATE Corp. (f/k/a HC2 Holdings, Inc.) and the investors party thereto (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on July 7, 2021) (File No. 001-35210)
10.26	Second Amended and Restated Registration Rights Agreement, dated as of January 5, 2015, by and among INNOVATE Corp (f/k/a HC2 Holdings, Inc.), the initial purchasers of the Series A Preferred Stock, the initial purchasers of the Series A Preferred Stock and the purchasers of the Series A-2 Preferred Stock (incorporated by reference to Exhibit 10.2 on INNOVATE's Current Report on Form 8-K, filed on January 9, 2015) (File No. 001-35210.
10.27	Letter Agreement dated March 26, 2021 by and between INNOVATE Corp (f/k/a HC2 Holdings, Inc.) and Continental General Insurance Company (incorporated by reference to Exhibit 10.5 to the Quarterly Report on Form 10-Q filed by INNOVATE's on August 6, 2021) (File No. 001-35210).
10.28	Fifth Omnibus Amendment to Secured Notes, Consent and Second Amendment to Asset Sale Under Secured Notes and Intercreditor Agreement, dated as of October 21, 2021 by and among HC2 Station Group, Inc., HC2 LPTV Holdings, Inc., HC2 Broadcasting Inc., HC2 Network Inc., HC2 Broadcasting License Inc., HC2 Broadcasting Intermediate Holdings Inc., HC2 Broadcasting Holdings Inc., MSD PCOF Partners XVIII, LLC, Great American Life Insurance Company and Great American Insurance Company (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on October 27, 2021) (File No. 001-35210).
10.29^	Executive Severance Guidelines (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by INNOVATE on October 27, 2021) (File No. 001-35210).
10.30	Second Omnibus Amendment to Secured Notes dated as of August 31, 2020, by and among Station Group, LPTV, Broadcasting, Network, and HC2 Broadcasting Inc., Intermediate Parent, Parent Borrower, and MSD PCOF Partners, XVIII, LLC ("MSD"), GALIC and GAIC (incorporated by reference to Exhibit 10.33 to the Annual Report on Form 10-K filed on March 9, 2022) (File No. 001-35210).

10.31	Fourth Omnibus Amendment to Secured Notes and Third Amendment to Intercreditor Agreement, dated as of November 25, 2020, by and among Station Group, LPTV, Broadcasting, Network, and HC2 Broadcasting Inc., Intermediate Parent, Parent Borrower, and MSD PCOF Partners, XVIII, LLC ("MSD"), GALIC and GAIC (incorporated by reference to Exhibit 10.34 to the Annual Report on Form 10-K filed on March 9, 2022) (File No. 001-35210).
10.32^	2019 INNOVATE Corp. Executive Bonus Plan (incorporated by reference to Exhibit 10.35 to the Annual Report on Form 10-k filed on March 9, 2022) (File No. 001-35210)).
10.33^	Form of Restricted Stock Award Agreement (incorporated by reference to Exhibit 10.36 to the Annual Report on Form 10-K filed on March 9, 2022) (File No. 001-35210).
10.34^	Form of Stock Option Agreement (incorporated by reference to Exhibit 10.37 to the Annual Report on Form 10-K filed on March 9, 2022) (File No. 001-35210).
10.35^	Form of Director Restricted Stock Award Agreement (incorporated by reference to Exhibit 10.38 to the Annual Report on Form 10-K filed on March 9, 2022) (File No. 001-35210).
10.36	First Amendment to Credit Agreement dated as of August 2, 2022, among DBM Global Inc. and the Other Borrowers, the Lenders, UMB Bank, as Administrative Agent and BMO Harris Bank N.A., as Syndication Agent (incorporated by reference to Exhibit 10.1 to the Quarterly Report on Form 10-Q filed on November 2, 2022) (File No. 001-35210).
10.37	Separation and Release Agreement by and between INNOVATE Corp. and Joseph A. Ferraro dated September 13, 2022 (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K, filed on September 16, 2022) (File No. 001-35210).
10.38	Senior Secured Promissory Note dated as of July 13, 2022 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.3 to the Quarterly Report on Form 10-Q, filed on November 2, 2022) (File No. 001-35210).
10.39	Senior Secured Promissory Note dated as of August 8, 2022 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.4 to the Quarterly Report on Form 10-Q, filed on November 2, 2022) (File No. 001-35210).
10.40	Sixth Omnibus Amendment to Secured Notes, dated as of November 28, 2022, by and among HC2 Station Group, Inc., HC2 LPTV Holdings, Inc., HC2 Broadcasting Inc., HC2 Network Inc., HC2 Broadcasting License Inc., DTV America Corporation, HC2 Broadcasting Intermediate Holdings Inc., HC2 Broadcasting Holdings Inc., MSD PCOF Partners, XVIII, LLC, MassMutual Ascent Life Insurance Company and Great American Insurance Company (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on November 29, 2022) (File No. 001-35210).
10.41	Letter Agreement with Continental General Insurance Company dated December 30, 2022 (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on January 5, 2023) (File No. 001-35210).
10.42	Seventh Omnibus Amendment to Secured Notes, dated as of December 30, 2022, by and among HC2 Station Group, Inc., HC2 Broadcasting Inc., HC2 Network Inc., HC2 Broadcasting License Inc., DTV America Corporation, HC2 Broadcasting Intermediate Holdings Inc., HC2 Broadcasting Holdings Inc., MSD PCOF Partners, XVIII, LLC, MassMutual Ascent Life Insurance Company and Great American Insurance Company (incorporated by reference to Exhibit 10.2 to the Current Report on Form 8-K filed by INNOVATE on January 5, 2023) (File No. 001-35210).
10.43	Mutual Release and Termination Agreement dated as of December 31, 2022, by and among Azteca International Corporation and TV Azteca, S.A.B. de C.V., HC2 Network, Inc. and TV Azteca, S.A.B. de C.V. (incorporated by reference to Exhibit 10.3 to the Current Report on Form 8-K filed by INNOVATE on January 5, 2023) (File No. 001-35210).
10.44	Senior Secured Promissory Note dated as of December 13, 2022 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated herein by reference to Exhibit 10.44 to the Annual Report on Form 10-K filed by INNOVATE on March 14, 2023) (File No. 001-35210).
10.45	Senior Secured Promissory Note dated as of February 15, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.1 to Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.46	Senior Secured Promissory Note dated as of February 28, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.2 to Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.47	Senior Secured Promissory Note dated as of March 31, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.3 to Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.48	Senior Secured Promissory Note dated as of April 28, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.4 to Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.49	Stock Purchase Agreement dated as of May 9, 2023 by and between INNOVATE Corp. and Continental General Insurance Company (incorporated by reference to Exhibit 10.5 to Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).

10.50	Subordinated Unsecured Promissory Note dated as of May 9, 2023 by and between INNOVATE Corp. and Continental General Insurance Company (incorporated by reference to Exhibit 10.6 to Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.51	Stock Purchase Agreement dated as of May 9, 2023 by and between INNOVATE Corp. and Continental General Insurance Company (incorporated by reference to Exhibit 10.5 to the Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.52	Subordinated Unsecured Promissory Note dated as of May 9, 2023 by and between INNOVATE Corp. and Continental General Insurance Company (incorporated by reference to Exhibit 10.6 to the Quarterly Report on Form 10-Q filed by INNOVATE on May 10, 2023) (File No. 001-35210).
10.53	Senior Secured Promissory Note dated as of May 12, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.3 to Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.54	Senior Secured Promissory Note dated as of May 31, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.4 to Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.55	Senior Secured Promissory Note dated as of June 14, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.5 to Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.56	Amendment of Senior Secured Promissory Notes dated as of June 28, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.6 to Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.57	Senior Secured Promissory Note dated as of June 28, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.7 to Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.53	Senior Secured Promissory Note and amendment dated as of July 14, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.8 to the Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.54	Amendment of Senior Secured Promissory Notes dated as of July 28, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.9 to the Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.55	Senior Secured Promissory Note dated as of July 28, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.10 to the Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.56	Eighth Omnibus Amendment to Secured Notes, dated as of August 8, 2023, by and among, HC2 Station Group, Inc., HC2 Broadcasting Inc., HC2 Network Inc., DTV America Corporation, HC2 Broadcasting Intermediate Holdings Inc., HC2 Broadcasting Holdings Inc., MSD PCOF Partners XVIII, LLC, MassMutual Ascend Life Insurance Company and Great American Insurance Company (incorporated by reference to Exhibit 10.11 to the Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.57	Financial Support Commitment from Lancer Capital LLC dated August 8, 2023 (incorporated by reference to Exhibit 10.12 to the Quarterly Report on Form 10-Q filed by INNOVATE on August 9, 2023) (File No. 001-35210).
10.58	Senior Secured Promissory Note dated as of August 15, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.6 to the Quarterly Report on Form 10-Q filed by INNOVATE on November 9, 2023) (File No. 001-35210).
10.59	Amendment of Senior Secured Promissory Notes dated as of August 15, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (incorporated by reference to Exhibit 10.7 to the Quarterly Report on Form 10-Q filed by INNOVATE on November 9, 2023) (File No. 001-35210).
10.60	Separation Agreement dated as of September 21, 2023 by and between Suzi Herbst and INNOVATE Corp. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on September 21, 2023) (File No. 001-35210).
10.61	Employment Agreement dated as of October 6, 2023 by and between Paul K. Voigt and INNOVATE Corp. (incorporated by reference to Exhibit 10.1 to the Current Report on Form 8-K filed by INNOVATE on October 11, 2023) (File No. 001-35210).
10.62	Amended and Restated Financial Support Commitment Letter from Lancer Capital LLC dated November 7, 2023 (incorporated by reference to Exhibit 10.10 to the Quarterly Report on Form 10-Q filed by INNOVATE on November 9, 2023) (File No. 001-35210).

10.63	Ninth Omnibus Amendment to Secured Notes, dated as of November 9, 2023, by and among, HC2 Station Group, Inc., HC2 Broadcasting Inc., HC2 Network Inc., DTV America Corporation, HC2 Broadcasting Intermediate Holdings Inc., HC2 Broadcasting Holdings Inc., MSD PCOF Partners XVIII, LLC, MassMutual Ascend Life Insurance Company and Great American Insurance Company (incorporated by reference to Exhibit 10.11 to the Quarterly Report on Form 10-Q filed by INNOVATE on November 9, 2023) (File No. 001-35210)
10.64	Side Letter to Ninth Omnibus Amendment to Secured Notes, dated as of November 9, 2023, by and among,HC2 Station Group, Inc., HC2 Broadcasting Inc., HC2 Network, Inc., DTV America Corporation, HC2 Broadcasting Intermediate Holdings, Inc., HC2 Broadcasting Holdings, Inc., and MassMutual Life Insurance Company and Great American Insurance Company (incorporated by reference to Exhibit 10.12 to the Quarterly Report on Form 10-Q filed by INNOVATE on November 9, 2023) (File No. 001-35210).
10.65	Amendment of Senior Secured Promissory Notes dated as of November 15, 2023 by and between R2 Technologies, Inc. and Lancer Capital LLC (filed herewith).
10.66	INNOVATE Corp. Clawback Policy effective November 2, 2023 (filed herewith).
10.67	INNOVATE Corp. Insider Trading Policy effective November 2, 2023 (filed herewith).
10.68	Second Amendment to Credit Agreement, dated as of December 12, 2023, among DBM Global Inc. and the other Borrowers, the Lenders, UMB Bank, n.a., as Administrative Agent and BMO Harris Bank N.A., as Syndication Agent (filed herewith).
10.69	Sublease Agreement dated as of December 19, 2023, by and between INNOVATE Corp. and Palm Beach Cultural Innovation Center Inc. (filed herewith).
10.70	Investment Agreement dated as of March 5, 2024 by and between INNOVATE Corp. and Lancer Capital LLC (filed herewith)
10.71	Registration Rights Agreement dated as of March 5, 2024 by and between INNOVATE Corp. and Lancer Capital LLC (filed herewith).
10.72	Amended and Restated Senior Secured Promissory Note dated January 31, 2024 by and between R2 Technologies, Inc. and Lancer Capital LLC (filed herewith)
21.1	Subsidiaries of INNOVATE (filed herewith).
23.1	Consent of BDO USA, P.C., an independent registered public accounting firm (filed herewith).
31.1	Rule 13a-14(a)/15d-14(a) Certification of Chief Executive Officer (filed herewith).
31.2	Rule 13a-14(a)/15d-14(a) Certification of Chief Financial Officer (filed herewith).
32.1*	Section 1350 Certification of Chief Executive Officer and Chief Financial Officer (furnished herewith).
101	The following materials from the registrant's Annual Report on Form 10-K for the fiscal years ended December 31, 2023 and 2022, formatted in extensible business reporting language (XBRL); (i) Consolidated Statements of Operations for the years ended December 31, 2023 and 2022, (ii) Consolidated Statements of Comprehensive Income (Loss) for the years ended December 31, 2023 and 2022, (iii) Consolidated Balance Sheets at December 31, 2023 and 2022, (iv) Consolidated Statements of Stockholders' Equity (Deficit) for the years ended December 31, 2023 and 2022, (v) Consolidated Statements of Cash Flows for the years ended December 31, 2023 and 2022, and (vi) Notes to Consolidated Financial Statements (filed herewith).
104	The cover page from the Company's Annual Report on Form 10-K for the year ended December 31, 2023, formatted in Inline XBRL (included as Exhibit 101).

* These certifications are being "furnished" and will not be deemed "filed" for purposes of Section 18 of the Securities Exchange Act of 1934, as amended, or otherwise subject to the liability of that section. Such certifications will not be deemed to be incorporated by reference into any filing under the Securities Act of 1933 or the Securities Exchange Act of 1934, as amended, except to the extent that the registrant specifically incorporates it by reference.

^ Indicates management contract or compensatory plan or arrangement.

ITEM 16. FORM 10-K SUMMARY

Not applicable.

SIGNATURES

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

INNOVATE Corp.

By: /S/ PAUL K. VOIGT

Paul K. Voigt
President and Interim Chief Executive Officer
(Principal Executive Officer)

Date: March 6, 2024

POWER OF ATTORNEY

Each of the officers and directors of INNOVATE Corp., whose signature appears below, in so signing, also makes, constitutes and appoints each of Paul K. Voigt and Michael J. Sena, and each of them, his true and lawful attorneys-in-fact, with full power and substitution, for him in any and all capacities, to execute and cause to be filed with the SEC any and all amendments to this Annual Report on Form 10-K, with exhibits thereto and other documents connected therewith and to perform any acts necessary to be done in order to file such documents, and hereby ratifies and confirms all that said attorneys-in-fact or their substitute or substitutes may do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated as of March 6, 2024.

Signature	Title
/S/ PAUL K. VOIGT	Interim Chief Executive Officer
Paul K. Voigt	
/S/ MICHAEL J. SENA	Chief Financial Officer (Principal Financial and Accounting Officer)
Michael J. Sena	
/S/ AVRAM A. GLAZER	Director
Avram A. Glazer	
/S/ WARREN H. GFELLER	Director
Warren H. Gfeller	
/S/ BRIAN S. GOLDSTEIN	Director
Brian S. Goldstein	
/S/ AMY WILKINSON	Director
Amy Wilkinson	

INNOVATE CORP.
INDEX TO FINANCIAL STATEMENTS

Report of Independent Registered Public Accounting Firm

Shareholders and Board of Directors
INNOVATE Corp.
New York, NY

Opinion on the Consolidated Financial Statements

We have audited the accompanying consolidated balance sheets of INNOVATE Corp. (the "Company") as of December 31, 2023 and 2022, the related consolidated statements of operations and comprehensive loss, stockholders' deficit, and cash flows for each of the years then ended, and the related notes (collectively referred to as the "consolidated financial statements"). In our opinion, the consolidated financial statements present fairly, in all material respects, the financial position of the Company at December 31, 2023 and 2022, and the results of its operations and its cash flows for the years then ended, in conformity with accounting principles generally accepted in the United States of America.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the Company's internal control over financial reporting as of December 31, 2023, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission ("COSO") and our report dated March 6, 2024, expressed an unqualified opinion thereon.

Basis for Opinion

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

We conducted our audits in accordance with the standards of the PCAOB. Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement, whether due to error or fraud.

Our audits included performing procedures to assess the risks of material misstatement of the consolidated financial statements, whether due to error or fraud, and performing procedures that respond to those risks. Such procedures included examining, on a test basis, evidence regarding the amounts and disclosures in the consolidated financial statements. Our audits also included evaluating the accounting principles used and significant estimates made by management, as well as evaluating the overall presentation of the consolidated financial statements. We believe that our audits provide a reasonable basis for our opinion.

Critical Audit Matter

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

Revenue Recognition - Estimated Costs to Complete for a Certain Segment

As described in Note 3 to the consolidated financial statements, with respect to the Company's Infrastructure segment ("DBMG"), the Company recognizes a significant portion of its revenue over time using the input method to measure progress for its service and construction contracts based on the costs incurred towards delivery to complete projects. The estimate of costs to complete these projects is based on direct materials, labor costs related to contract performance, subcontractor costs, indirect labor, and fabrication plant overhead costs. Changes in the scope of the contract and price changes and the timing of when work has commenced are among the factors that influence the estimate of cost and progress for measuring service and construction contracts.

We identified certain estimated costs to complete on specific revenue contracts at DBMG as a critical audit matter. The determination of the total estimated costs to complete requires management to make significant estimates and assumptions regarding direct materials, labor, and subcontractor costs. Changes in the estimates of these costs can have a significant impact on the revenue recognized each period. Auditing these elements involved especially challenging auditor judgment in evaluating the reasonableness of management's assumptions and estimates over the duration of these contracts.

The primary procedures we performed to address this critical audit matter included:

- Testing the operating effectiveness of internal controls related to revenue recognition at DBMG, specifically controls over the assessment of certain estimated costs to complete.

- Assessing the reasonableness of the certain estimated costs to complete for specific projects through: (i) assessing the status of completion through testing of a sample of project costs incurred to date, (ii) evaluating the reasonableness of project budgets through performing gross margin analysis using subsequently available information, (iii) assessing the reasonableness of changes in the certain estimated costs to complete and investigating reasons for changes in expected costs and project margins, and (iv) evaluating the reasonableness of project status by performing inquiries of project management personnel and assessing the nature of activities required to complete open projects.

/s/ BDO USA, P.C.

We have served as the Company's auditor since 2011.

New York, NY
March 6, 2024

Report of Independent Registered Public Accounting Firm

Shareholders and Board of Directors
INNOVATE Corp.
New York, NY

Opinion on Internal Control over Financial Reporting

We have audited INNOVATE Corp.'s (the "Company's") internal control over financial reporting as of December 31, 2023, based on criteria established in *Internal Control – Integrated Framework (2013)* issued by the Committee of Sponsoring Organizations of the Treadway Commission (the "COSO criteria"). In our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2023, based on the COSO criteria.

We also have audited, in accordance with the standards of the Public Company Accounting Oversight Board (United States) ("PCAOB"), the consolidated balance sheets of the Company as of December 31, 2023 and 2022, the related consolidated statements of operations and comprehensive loss, stockholders' deficit, and cash flows for each of the years then ended, and the related notes and our report dated March 6, 2024 expressed an unqualified opinion thereon.

Basis for Opinion

The Company's management is responsible for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in the accompanying "Item 9A, Management's Report on Internal Control over Financial Reporting". Our responsibility is to express an opinion on the Company's internal control over financial reporting based on our audit. We are a public accounting firm registered with the PCAOB and are required to be independent with respect to the Company in accordance with U.S. federal securities laws and the applicable rules and regulations of the Securities and Exchange Commission and the PCAOB.

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

Definition and Limitations of Internal Control over Financial Reporting

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

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

/s/ BDO USA, P.C.

New York, NY
March 6, 2024

INNOVATE CORP.
CONSOLIDATED STATEMENTS OF OPERATIONS
(in millions, except per share amounts)

	Year Ended December 31,	
	2023	**2022**
Revenue	$ 1,423.0	$ 1,637.3
Cost of revenue	1,207.0	1,415.9
Gross profit	216.0	221.4
Operating expenses:		
Selling, general and administrative	168.0	180.1
Depreciation and amortization	20.2	27.2
Other operating loss	1.3	0.7
Income from operations	26.5	13.4
Other (expense) income:		
Interest expense	(68.2)	(52.0)
Loss from equity investees	(9.4)	(1.3)
Other income (expense), net	16.7	(1.2)
Loss from operations before income taxes	(34.4)	(41.1)
Income tax expense	(4.5)	(0.9)
Net loss	(38.9)	(42.0)
Net loss attributable to non-controlling interests and redeemable non-controlling interests	3.7	6.1
Net loss attributable to INNOVATE Corp.	(35.2)	(35.9)
Less: Preferred dividends	2.4	4.9
Net loss attributable to common stockholders	$ (37.6)	$ (40.8)
Loss per share - basic and diluted	$ (0.48)	$ (0.53)
Weighted average common shares outstanding - basic and diluted	78.1	77.5

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

INNOVATE CORP.
CONSOLIDATED STATEMENTS OF COMPREHENSIVE LOSS
(in millions)

	Year Ended December 31,	
	2023	**2022**
Net loss	$ (38.9)	$ (42.0)
Other comprehensive loss		
Foreign currency translation adjustment, net of tax	(0.6)	(0.2)
Disposition of equity method investment, net of tax	(9.1)	—
Other comprehensive loss	$ (9.7)	$ (0.2)
Comprehensive loss	(48.6)	(42.2)
Comprehensive loss attributable to non-controlling interests and redeemable non-controlling interests	6.4	5.8
Comprehensive loss attributable to INNOVATE Corp.	$ (42.2)	$ (36.4)

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

INNOVATE CORP.
CONSOLIDATED BALANCE SHEETS
(in millions, except share amounts)

	December 31,	
	2023	**2022**
Assets		
Current assets		
Cash and cash equivalents	$ 80.8	$ 80.4
Accounts receivable, net	278.4	254.9
Contract assets	118.6	165.1
Inventory	22.4	18.9
Assets held for sale	3.1	—
Other current assets	14.6	17.1
Total current assets	517.9	536.4
Investments	1.8	59.5
Deferred tax asset	2.0	1.7
Property, plant and equipment, net	154.6	165.0
Goodwill	127.1	127.1
Intangibles, net	178.9	190.1
Other assets	61.3	71.9
Total assets	$ 1,043.6	$ 1,151.7
Liabilities, temporary equity and stockholders' deficit		
Current liabilities		
Accounts payable	$ 142.9	$ 202.5
Accrued liabilities	70.8	65.4
Current portion of debt obligations	30.5	30.6
Contract liabilities	153.5	98.6
Other current liabilities	16.1	20.1
Total current liabilities	413.8	417.2
Deferred tax liability	4.1	9.1
Debt obligations	679.3	683.8
Other liabilities	82.7	71.2
Total liabilities	1,179.9	1,181.3
Commitments and contingencies		
Temporary equity		
Preferred stock Series A-3 and Series A-4, $0.001 par value	16.4	17.6
Shares authorized: 20,000,000 as of both December 31, 2023 and 2022		
Shares issued and outstanding: 6,125 of Series A-3 and 10,000 of Series A-4 as of both December 31, 2023 and 2022		
Redeemable non-controlling interest	(1.0)	43.4
Total temporary equity	15.4	61.0
Stockholders' deficit		
Common stock, $0.001 par value	0.1	0.1
Shares authorized: 160,000,000 as of both December 31, 2023 and 2022		
Shares issued: 80,722,983 and 80,216,028 as of December 31, 2023 and 2022, respectively		
Shares outstanding: 79,234,991 and 78,787,768 as of December 31, 2023 and 2022, respectively		
Additional paid-in capital	328.2	330.1
Treasury stock, at cost: 1,487,992 and 1,428,260 shares as of December 31, 2023 and 2022, respectively	(5.4)	(5.3)
Accumulated deficit	(487.3)	(452.1)
Accumulated other comprehensive (loss) income	(1.1)	5.9
Total INNOVATE Corp. stockholders' deficit	(165.5)	(121.3)
Non-controlling interest	13.8	30.7
Total stockholders' deficit	(151.7)	(90.6)
Total liabilities, temporary equity and stockholders' deficit	$ 1,043.6	$ 1,151.7

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

INNOVATE CORP.
CONSOLIDATED STATEMENTS OF STOCKHOLDERS' DEFICIT
(in millions)

	Common Stock		Additional Paid-In Capital	Treasury Stock	Accumulated Deficit	Accumulated Comprehensive Income (Loss) (a)	Total INNOVATE Stockholders' (Deficit) Equity	Non-controlling Interest	Total Stockholders' (Deficit) Equity	Temporary Equity
	Shares	Amount								
Balance as of December 31, 2021	77.8	0.1	$ 330.6	$ (5.2)	$ (416.2)	$ 6.4	$ (84.3)	$ 28.1	$ (56.2)	$ 68.1
Share-based compensation	—	—	2.4	—	—	—	2.4	—	2.4	—
Fair value adjustment to redeemable non-controlling interest	—	—	0.2	—	—	—	0.2	—	0.2	(0.2)
Taxes paid in lieu of shares issued for share-based compensation	—	—	—	(0.1)	—	—	(0.1)	—	(0.1)	—
Stock dividends	—	—	(2.7)	—	—	—	(2.7)	(1.3)	(4.0)	(1.2)
Issuance of common stock	1.0	—	—	—	—	—	—	—	—	—
Spectrum warrant modification	—	—	—	—	—	—	—	3.1	3.1	—
Issuance of preferred stock for dividend	—	—	(0.9)	—	—	—	(0.9)	—	(0.9)	0.9
Transactions with non-controlling interests	—	—	0.2	—	—	—	0.2	(0.2)	—	0.2
Other	—	—	0.3	—	—	—	0.3	—	0.3	—
Net (loss) income	—	—	—	—	(35.9)	—	(35.9)	0.8	(35.1)	(6.9)
Other comprehensive (loss) income	—	—	—	—	—	(0.5)	(0.5)	0.2	(0.3)	0.1
Balance as of December 31, 2022	78.8	0.1	$ 330.1	$ (5.3)	$ (452.1)	$ 5.9	$ (121.3)	$ 30.7	$ (90.6)	$ 61.0
Share-based compensation	—	—	2.2	—	—	—	2.2	—	2.2	—
Taxes paid in lieu of shares issued for share-based compensation	(0.1)	—	—	(0.1)	—	—	(0.1)	—	(0.1)	—
Preferred stock dividends	—	—	(1.3)	—	—	—	(1.3)	—	(1.3)	(1.3)
Issuance of common stock	0.5	—	—	—	—	—	—	—	—	—
Distributions to non-controlling interests	—	—	—	—	—	—	—	(10.7)	(10.7)	(5.2)
Transactions with non-controlling interests	—	—	(2.8)	—	—	—	(2.8)	2.9	0.1	—
Other	—	—	—	—	—	—	—	(9.0)	(9.0)	9.0
DBMGi preferred stock liability repurchase	—	—	—	—	—	—	—	—	—	(41.8)
Net (loss) income	—	—	—	—	(35.2)	—	(35.2)	2.2	(33.0)	(5.9)
Other comprehensive loss	—	—	—	—	—	(7.0)	(7.0)	(2.3)	(9.3)	(0.4)
Balance as of December 31, 2023	79.2	0.1	$ 328.2	$ (5.4)	$ (487.3)	$ (1.1)	$ (165.5)	$ 13.8	$ (151.7)	$ 15.4

(a) Inclusive of other comprehensive (loss) income, foreign currency cumulative translation adjustments totaled a loss of $2.4 million and income of $4.6 million as of December 31, 2023 and 2022, respectively.

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

INNOVATE CORP.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(in millions)

	Year Ended December 31,	
	2023	**2022**
Cash flows from operating activities		
Net loss	$ (38.9)	$ (42.0)
Adjustments to reconcile net loss to cash provided by (used in) operating activities		
Share-based compensation expense	2.2	2.4
Depreciation and amortization (including amounts in cost of revenue)	36.0	42.2
Amortization of deferred financing costs and debt discount	6.9	3.4
Loss from equity investees	9.4	1.3
Gain on sale of investments and step-up of equity method investments	(15.8)	—
Asset impairment expense	1.8	2.1
Deferred income tax (benefit) expense	(5.3)	1.1
Other operating activities, net	2.1	—
Changes in assets and liabilities, net of acquisitions:		
Accounts receivable	(25.7)	(5.5)
Contract assets	46.5	(46.5)
Other current assets	(0.6)	(6.0)
Inventory	(3.5)	(1.9)
Other assets	15.1	16.9
Accounts payable	(60.2)	21.7
Accrued liabilities	9.9	(12.7)
Contract liabilities	54.9	19.5
Other current liabilities	(11.2)	(9.9)
Other liabilities	2.9	4.4
Cash provided by (used in) operating activities	26.5	(9.5)
Cash flows from investing activities		
Purchase of property, plant and equipment	(18.4)	(20.7)
Proceeds from disposal of property, plant and equipment	1.6	2.0
Loans to equity method investee	(4.0)	(4.5)
Proceeds from the sale of investments	59.2	—
Other investing activities	0.7	0.7
Cash provided by (used in) investing activities	39.1	(22.5)
Cash flows from financing activities		
Proceeds from lines of credit	87.0	176.7
Payments on lines of credit	(94.7)	(85.1)
Proceeds from other debt obligations, net of deferred financing costs	4.9	10.7
Principal payments on other debt obligations	(37.1)	(28.3)
Purchase of preferred stock	(7.0)	—
Payments to non-controlling interests and redeemable non-controlling interests related to sale of equity method investment	(15.9)	—
Dividend payments	(2.2)	(5.2)
Other financing activities	(0.3)	(0.7)
Cash (used in) provided by financing activities	(65.3)	68.1
Effects of exchange rate changes on cash, cash equivalents and restricted cash	(0.2)	(1.4)
Net increase in cash and cash equivalents, including restricted cash	0.1	34.7
Cash, cash equivalents and restricted cash, beginning of year	82.2	47.5
Cash, cash equivalents and restricted cash, end of year	$ 82.3	$ 82.2

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

1. Organization and Business

INNOVATE Corp. ("INNOVATE" and, together with its consolidated subsidiaries, the "Company", "we" and "our") is a diversified holding company that has a portfolio of subsidiaries in a variety of operating segments. We seek to grow these businesses so that they can generate long-term sustainable free cash flow and attractive returns in order to maximize value for all stakeholders. While the Company generally intends to acquire controlling equity interests in its operating subsidiaries, the Company may invest to a limited extent in a variety of non-controlling equity interest positions or debt instruments. The Company's shares of common stock trade on the New York Stock Exchange ("NYSE") under the symbol "VATE".

The Company currently has three reportable segments, plus our Other segment, based on management's organization of the enterprise: Infrastructure, Life Sciences, Spectrum, and Other which includes businesses that do not meet the separately reportable segment thresholds.

1. Our Infrastructure segment is comprised of DBM Global Inc. ("DBMG") and its wholly-owned subsidiaries. DBMG is a fully integrated industrial construction, structural steel and facility maintenance provider that provides fabrication and erection of structural steel and heavy steel plate services and also fabricates trusses and girders and specializes in the fabrication and erection of large-diameter water pipe and water storage tanks, as well as 3-D Building Information Modeling ("BIM") and detailing. DBMG provides these services on commercial, industrial, and infrastructure construction projects such as high- and low-rise buildings and office complexes, hotels and casinos, convention centers, sports arenas and stadiums, shopping malls, hospitals, dams, bridges, mines, metal processing, refineries, pulp and paper mills and power plants. Through GrayWolf Industrial Inc. ("GrayWolf"), DBMG provides integrated solutions for digital engineering, modeling and detailing, construction, heavy equipment installation and facility services including maintenance, repair, and installation to a diverse range of end markets. Through Aitken Manufacturing, Inc., DBMG manufactures pollution control scrubbers, tunnel liners, pressure vessels, strainers, filters, separators and a variety of customized products. Through Banker Steel Holdco, LLC ("Banker Steel"), DBMG provides full-service fabricated structural steel and erection services primarily for the East Coast and Southeast commercial and industrial construction market, in addition to full design-assist services. The Company maintains a 91.2% controlling interest in DBMG.

2. Our Life Sciences segment is comprised of Pansend Life Sciences, LLC ("Pansend"), its subsidiaries and its equity investments. Pansend maintains controlling interests of 80.0% in Genovel Orthopedics, Inc. ("Genovel"), which seeks to develop products to treat early osteoarthritis of the knee and 56.6% in R2 Technologies, Inc. ("R2"), which develops aesthetic and medical technologies for the skin. Pansend also invests in other early stage or developmental stage healthcare companies and as of December 31, 2023, had a 46.2% interest in MediBeacon Inc. ("MediBeacon"), a medical technology company specializing in the advances of fluorescent tracer agents and transdermal measurement, potentially enabling real-time, direct monitoring of kidney function, a 1.9% fully diluted interest in Triple Ring Technologies, Inc. ("Triple Ring"), a science and technology co-development company, and a 20.1% interest in Scaled Cell Solutions, Inc. ("Scaled Cell"), an immunotherapy company developing a novel autologous cell therapy system to potentially improve current CAR-T treatments.

3. Our Spectrum segment is comprised of HC2 Broadcasting Holdings Inc. ("Broadcasting") and its subsidiaries. Broadcasting strategically acquired and operates over-the-air broadcasting stations across the United States. The Company maintains a 98.0% controlling interest in Broadcasting and maintains a controlling interest of approximately 69.2%, inclusive of 2.8% proxy rights from minority holders of DTV America Corporation ("DTV"). On a fully diluted basis, the Company would have a 85.8% controlling interest in Broadcasting.

4. Our Other segment represents all other businesses or investments that do not meet the definition of a segment individually or in the aggregate. Included in the Other segment is TIC Holdco, Inc. ("TIC"), and the former Marine Services segment, which includes its holding company, Global Marine Holdings, LLC ("GMH"), in which the Company maintains a 72.8% controlling interest. GMH's results include its subsidiary's prior 19.0% equity method investment in HMN International Co., Ltd., formerly known as Huawei Marine Networks Co. ("HMN"), until it was sold on March 6, 2023. Refer to Note 6. Investments for additional information.

2. Summary of Significant Accounting Policies

Principles of Consolidation

The accompanying Consolidated Financial Statements include the accounts of the Company, its wholly owned subsidiaries and all other subsidiaries over which the Company exerts control. All intercompany profits, transactions and balances have been eliminated in consolidation. The remaining interests not owned by the Company are presented as a non-controlling interest component of total equity.

Basis of Presentation and Liquidity

The accompanying Consolidated Financial Statements of the Company included herein have been prepared pursuant to the rules and regulations of the Securities and Exchange Commission ("SEC"). Certain prior amounts have been reclassified or combined to conform to the current year presentation.

On February 23, 2024, the Company's Board of Directors (the "Board") approved a plan to proceed with a $19.0 million rights offering for its common stock and fixed March 6, 2024 as the record date for holders of common stock entitled to participate in the rights offering. On March 5, 2024, the Company set the subscription price at which the rights would be exercisable at $0.70 per share and entered into an investment agreement (the "Investment Agreement") with Lancer Capital LLC ("Lancer Capital"), a related party and an entity controlled by Avram A. Glazer, the Chairman of the Board and a beneficial owner of 29.1% of the Company's common stock, pursuant to which the rights offering will be backstopped by Lancer Capital. Pursuant to the Investment Agreement, Lancer Capital will also purchase an additional $16.0 million of the Company's new Series C Preferred Stock in a private placement transaction to close concurrently with the settlement of the rights offering. For more information regarding the back-stop and private placement commitments from Lancer Capital under the Investment Agreement, refer to Note 22. Subsequent Events. At this time, management believes that the Company will be able to continue to meet its liquidity requirements and fund its fixed obligations (such as debt service and operating leases) and other cash needs for its operations for at least the next twelve months from the issuance of the Consolidated Financial Statements through a combination of available cash on hand, distributions from the Company's subsidiaries and the rights offering together with the back-stop and private placement commitments from Lancer Capital under the Investment Agreement.

The ability of INNOVATE's subsidiaries to make distributions to INNOVATE is subject to numerous factors, including restrictions contained in each subsidiary's financing agreements, availability of sufficient funds at each subsidiary and the approval of such payment by each subsidiary's board of directors, which must consider various factors, including general economic and business conditions, tax considerations, strategic plans, financial results and condition, expansion plans, any contractual, legal or regulatory restrictions on the payment of dividends, and such other factors each subsidiary's board of directors considers relevant. Although the Company believes, to the extent needed, that it will be able to raise additional debt or equity capital, refinance indebtedness or preferred stock, enter into other financing arrangements or engage in asset sales and sales of certain investments sufficient to fund any cash needs that the Company is not able to satisfy with the funds on hand or expected to be provided by our subsidiaries, there can be no assurance that it will be able to do so on terms satisfactory to the Company, if at all. Such financing options, if pursued, may also ultimately have the effect of negatively impacting our liquidity profile and prospects over the long-term and dilute holders of common stock. Our ability to sell assets and certain of our investments to meet our existing financing needs may also be limited by our existing financing instruments. In addition, the sale of assets or the Company's investments may also make the Company less attractive to potential investors or future financing partners.

Cash and Cash Equivalents

Cash and cash equivalents are comprised principally of amounts in money market accounts with original maturities of three months or less.

Restricted Cash

The Company's restricted cash balances consist of funds that are contractually or legally restricted as to usage or withdrawal and have been presented separately from cash and cash equivalents on the Consolidated Balance Sheets, and are primarily comprised of security deposits for long-term leases, which are held in separate bank accounts.

Acquisitions

The Company accounts for acquisitions using the acquisition method of accounting, which requires, among other things, that assets acquired and liabilities assumed be recognized at their estimated fair values as of the acquisition date. Estimates of fair value included in the Consolidated Financial Statements, in conformity with ASC 820, *Fair Value Measurements and Disclosures*, represent the Company's best estimates and valuations developed, when needed, with the assistance of independent appraisers or, where such valuations have not yet been completed or are not available, industry data and trends and by reference to relevant market rates and transactions. Such estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Company. Accordingly, the Company cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially.

Equity Method Investments

The Company utilizes the equity method to account for investments when it possesses the ability to exercise significant influence, but not control, over the operating and financial policies of the investee. The ability to exercise significant influence is presumed when an investor possesses more than 20% of the voting interests of the investee, such as with our investments in MediBeacon and Scaled Cell, of which we own an approximately 46.2% interest in MediBeacon and an approximately 20.1% interest in Scaled Cell as of December 31, 2023. This presumption may be overcome based on specific facts and circumstances that demonstrate that the ability to exercise significant influence is restricted. The Company applies the equity method to investments in common stock and to other investments when such other investments possess substantially identical subordinated interests to common stock. In applying the equity method, the Company records the investment at cost and subsequently increases or decreases the carrying amount of the investment by its proportionate share of the net earnings or losses in (Loss) income from equity investees and other comprehensive income (loss) of the investee. The Company records dividends or other equity distributions as reductions in the carrying value of the investment. In the event that net losses of the investee reduce the carrying amount to zero, additional net losses may be recorded if other investments in the investee are at-risk, even if the Company has not committed to provide financial support to the investee. Such additional equity method losses, if any, are based upon the change in the Company's claim on the investee's book value.

Measurement Alternative Investments

The Company utilizes the measurement alternative method to account for investments when it does not possess the ability to exercise significant influence or control and the investment does not have a readily determinable fair value. Under this method, investments are initially recognized at cost and subsequently measured at cost, adjusted for any observable changes in the fair value of the investment. In addition, the Company reviews the carrying value of investments measured under the measurement alternative for impairment on a regular basis. If there is an indication of impairment, the Company assesses whether the carrying value of the investment exceeds its recoverable amount. Any impairment losses are recognized in the financial statements.

Fair Value Measurements

Fair value is an exit price, representing the amount that would be received to sell an asset or paid to transfer a liability in an orderly transaction between market participants. As such, fair value is a market-based measurement that is determined based on assumptions that market participants would use in pricing an asset or a liability. Assets and liabilities recorded at fair value are measured and classified in accordance with a three-tier fair value hierarchy based on the observability of the inputs available in the market used to measure fair value:

- Level 1 - Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.
- Level 2 - Inputs that are based upon quoted prices for similar instruments in active markets, quoted prices for identical or similar instruments in markets that are not active, and model-based valuation techniques for which all significant inputs are observable in the market or can be derived from observable market data. Where applicable, these models project future cash flows and discount the future amounts to a present value using market-based observable inputs including interest rate curves, foreign exchange rates, and credit ratings.
- Level 3 - Unobservable inputs that are supported by little or no market activities.

The fair value hierarchy requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. In instances in which the inputs used to measure fair value fall into different levels of the fair value hierarchy, the fair value measurement classification is determined based on the lowest level input that is significant to the fair value measurement in its entirety. The Company's assessment of the significance of a particular input to the fair value measurement in its entirety requires judgment and considers factors specific to the financial instrument.

The Company's assets and liabilities that are measured at fair value on a recurring basis include cash equivalents. Our financial assets measured at fair value on a nonrecurring basis include non-marketable equity securities. Other financial assets and liabilities are carried at cost (initial fair value) with current fair value disclosed, if required.

Financial Instruments

Our financial instruments include cash and cash equivalents, marketable and non-marketable securities, including equity investments and certain other investments, accounts and notes receivable, accounts payable and other current liabilities, redeemable non-controlling interests and debt obligations.

Accounts Receivable

Accounts receivable are stated at amounts due from customers net of provision for expected credit losses. Our allowance for doubtful accounts considers historical experience, the age of certain receivable balances, credit history, current economic conditions and other factors that may affect the counterparty's ability to pay. As of January 1, 2023 the company adopted Accounting Standards Update ("ASU") 2016-13, *Financial Instruments - Credit Losses (Topic 326), Measurement of Credit Losses on Financial Instruments*. At each balance sheet date, all potentially uncollectible accounts are assessed individually for the purpose of determining the appropriate provision for doubtful accounts. Management has elected to use a risk-based, pool-level segmentation framework to calculate the expected loss rate. Management evaluates its experience with historical losses and then applies this historical loss ratio to financial assets with similar characteristics. The Company's historical loss ratio or its determination of risk pools may be adjusted for changes in customer, economic, market or other circumstances. The Company may also establish an allowance for credit losses for specific receivables when it is probable that the receivable will not be collected and the loss can be reasonably estimated. Amounts are written off against the allowance when they are considered to be uncollectible, and reversals of previously reserved amounts are recognized if a specifically reserved item is settled for an amount exceeding the previous estimate.

The policy for determining past due status is based on the contractual payment terms of each customer. Once collection efforts by the Company are exhausted, the determination for charging off uncollectible receivables is made.

Inventory

Inventory is valued at the lower of cost or net realizable value under the first-in, first-out method. Provision for obsolescence is made where appropriate and is charged to cost of revenue in the consolidated statements of operations. Short-term work in progress on contracts is stated at cost less foreseeable losses. These costs include only direct labor and expenses incurred to date and exclude any allocation of overhead. The policy for long-term work in progress contracts is disclosed within the Revenue and Cost Recognition accounting policy.

Accounting for Income Taxes

We recognize deferred tax assets and liabilities for the expected future tax consequences of transactions and events. Under this method, deferred tax assets and liabilities are determined based on the difference between the book basis and the tax basis of assets and liabilities using enacted tax rates in effect for the year in which the differences are expected to reverse. If necessary, deferred tax assets are reduced by a valuation allowance to an amount that is determined to be more likely than not recoverable. We must make significant estimates and assumptions about future taxable income and future tax consequences when determining the amount of the valuation allowance. The additional guidance provided by ASC No. 740, "Income Taxes" ("ASC 740"), clarifies the accounting for uncertainty in income taxes recognized in the financial statements. Expected outcomes of current or anticipated tax examinations, refund claims and tax-related litigation and estimates regarding additional tax liability (including interest and penalties thereon) or refunds resulting therefrom will be recorded based on the guidance provided by ASC 740 to the extent applicable.

We recognize the tax benefit from an uncertain tax position only if it is more likely than not that the tax position will be sustained on examination by the taxing authorities, based on the technical merits of the position. The tax benefits recognized in the consolidated financial statements from such a position are measured based on the largest benefit that has a greater than 50% likelihood of being realized upon ultimate resolution. These assessments of uncertain tax positions contain judgments related to the interpretation of tax regulations in the jurisdictions in which we transact business. The judgments and estimates made at a point in time may change based on the outcome of tax audits, expiration of statutes of limitations, as well as changes to, or further interpretations of, tax laws and regulations.

At December 31, 2023, our U.S. and foreign companies have significant deferred tax assets resulting from tax loss carryforwards. Additionally, the deferred tax assets generated by certain businesses that do not qualify to be included in the INNOVATE Corp. U.S. consolidated income tax return have been reduced by a full valuation allowance. Based on consideration of both positive and negative evidence, we determined that it was more likely than not that the net deferred tax assets of the INNOVATE Corp. U.S. consolidated filing group will not be realized. Therefore, a full valuation allowance was maintained against the INNOVATE Corp. U.S. consolidated filing group's net deferred tax assets as of December 31, 2023. The appropriateness and amount of the valuation allowance are based on cumulative history of losses and our assumptions about the future taxable income of each affiliate and the timing of the reversal of deferred tax assets and liabilities.

In relation to tax effects for accumulated OCI, our policy is to release the tax effects of amounts reclassified from accumulated OCI to pre-tax income (loss) from continuing operations. Any remaining tax effect in accumulated OCI is released following a portfolio approach.

Property, Plant and Equipment

Property, plant and equipment are stated at cost less accumulated amortization and depreciation, which is provided on the straight-line method over the estimated useful lives of the assets. Cost includes major expenditures for improvements and replacements which extend useful lives or increase capacity of the assets as well as expenditures necessary to place assets into readiness for use. Cost includes the original purchase price of the asset and the costs attributable to bringing the asset to its working condition for its intended use. Cost includes finance costs incurred prior to the asset being available for use. Expenditures for maintenance and repairs are expensed as incurred.

Costs for internal use software that are incurred in the preliminary project stage and in the post-implementation stage are expensed as incurred. Costs incurred during the application development stage are capitalized and amortized over the estimated useful life of the software, beginning when the software project is ready for its intended use, over the estimated useful life of the software, typically 3 years.

Depreciation is determined on a straight-line basis over the estimated useful lives of the assets, which range from 5 to 40 years for buildings and leasehold improvements, 3 to 15 years for equipment, furniture and fixtures, and 3 to 20 years for transportation equipment. Leasehold improvements are amortized over the lives of the leases or estimated useful lives of the assets, whichever is shorter. Assets under construction are not depreciated until they are complete and available for use.

When assets are sold or otherwise retired, the costs and accumulated amortization and depreciation are removed from the books and the resulting gain or loss is included in operating results. Property, plant and equipment that have been included as part of the assets held for sale are no longer amortized or depreciated from the time that they are classified as such. The Company periodically evaluates the carrying value of its property, plant and equipment based upon the estimated cash flows to be generated by the related assets. If an impairment is indicated, a loss is recognized.

Goodwill and Other Intangible Assets

Goodwill and intangible assets deemed to have indefinite lives are not amortized, but, rather, tested for impairment. The Company tests goodwill and indefinite lived intangibles for impairment at least annually in the fourth quarter (October 1st) or when factors indicate potential impairment (i.e., events occur or circumstances change that indicate the potential impairment under ASC 350, *Intangibles - Goodwill and Other* ("ASC 350"). In addition to the foregoing, management reviews goodwill and intangible assets for possible impairment whenever events or circumstances indicate that the carrying amounts of assets may not be recoverable. The factors that management considers important, and which could trigger an impairment review, include, but are not limited to: a more likely than not expectation of selling or disposing all, or a portion, of a reporting unit; a significant decline in the market value of our common stock or debt securities for a sustained period; a material adverse change in economic, financial market, industry or sector trends; a material failure to achieve operating results relative to historical levels or projected future levels; and significant changes in operations or business strategy. Intangible assets that have finite lives are amortized over their estimated useful lives and are subject to the impairment provisions of ASC 360, *Property, plant, and equipment* ("ASC 360").

The Company elected to utilize a qualitative assessment to evaluate whether it is more likely than not that the fair value of a reporting unit or indefinite-lived intangible asset is less than its carrying value, and if so, a quantitative test is performed. The quantitative evaluation for impairment of indefinite lived intangibles follows the same approach as described with goodwill above and consists of a comparison of the fair value of an intangible asset with its carrying amount. If the carrying amount of the intangible asset exceeds its fair value, an impairment loss shall be recognized in an amount equal to the excess.

Under the quantitative test, management estimates the fair value of a reporting unit, which requires various assumptions including projections of future cash flows, perpetual growth rates and discount rates. The assumptions about future cash flows and growth rates are based on our assessment of a number of factors, including the reporting unit's recent performance against budget, performance in the market that the reporting unit serves, and industry and general economic data from third-party sources. Discount rate assumptions are based on an assessment of the risk inherent in those future cash flows. Changes to the underlying businesses could affect the future cash flows, which in turn could affect the fair value of the reporting unit. Further, management assesses the current market capitalization, forecasts and the amount by which the fair values exceeded the carrying values. If the carrying amount of the reporting unit exceeds the fair value, an impairment loss shall be recognized in an amount equal to the excess.

Based on qualitative assessments performed as of October 1, 2023, management determined it was more likely than not that the fair value of its reporting units and the fair value of the indefinite-lived intangible assets exceeded their carrying values, and, as such, no impairment was required.

Intangible assets not subject to amortization (i.e. indefinite lived intangibles) consist of certain television broadcast licenses. Intangible assets subject to amortization consists of certain trade names, customer contracts and developed technology. These finite lived intangible assets are amortized based on their estimated useful lives. Such assets are subject to the impairment provisions of ASC 360, wherein impairment is recognized and measured only if there are events and circumstances that indicate that the carrying amount may not be recoverable. The carrying amount is not recoverable if it exceeds the sum of the undiscounted cash flows expected to result from the use of the asset group. An impairment loss is recorded to the extent the carrying amount of the asset or asset group exceeds the fair value and is not recoverable.

Refer to Note 8. Goodwill and Intangibles, Net for any intangible impairments recorded during the years presented.

Licensing: Television broadcast licenses generally are granted for eight-year periods. They are renewable after application and reviewed by the FCC and historically are renewed except in rare cases in which a petition to deny, a complaint or an adverse finding as to the licensee's qualifications results in loss of the license.

Valuation of Long-lived Assets

The Company reviews long-lived assets for impairment whenever events or changes indicate that the carrying amount of an asset may not be recoverable. In making such evaluations, the Company compares the expected undiscounted future cash flows to the carrying amount of the assets. If the total of the expected undiscounted future cash flows is less than the carrying amount of the assets, the Company is required to make estimates of the fair value of the long-lived assets in order to calculate the impairment loss equal to the difference between the fair value and carrying value of the assets.

The Company makes significant assumptions and estimates in this process regarding matters that are inherently uncertain, such as determining asset groups and estimating future cash flows, remaining useful lives, discount rates and growth rates. The resulting undiscounted cash flows are projected over an extended period of time, which subjects those assumptions and estimates to an even larger degree of uncertainty. While the Company believes that its estimates are reasonable, different assumptions could materially affect the valuation of the long-lived assets. The Company derives future cash flow estimates from its historical experience and its internal business plans, which include consideration of industry trends, competitive actions, technology changes, regulatory actions, available financial resources for marketing and capital expenditures and changes in its underlying cost structure.

The Company makes assumptions about the remaining useful life of its long-lived assets. The assumptions are based on the average life of its historical capital asset additions and its historical asset purchase trend. In some cases, due to the nature of a particular industry in which the company operates, such as the broadcast or infrastructure industry, the Company may assume that technology changes in such industry render all associated assets, including equipment, obsolete with no salvage value after their useful lives. In certain circumstances in which the underlying assets could be leased for an additional period of time or salvaged, the Company includes such estimated cash flows in its estimate.

The estimate of the appropriate discount rate to be used to apply the present value model in determining fair value was the Company's weighted average cost of capital which is based on the effective rate of its debt obligations at the current market values (for periods during which the Company had debt obligations) as well as the current volatility and trading value of the Company's common stock.

Leases

The Company accounts for leases in accordance with ASC 842, *Leases*, which requires the balance sheet recognition of lease assets and lease liabilities by lessees for those leases classified as operating and finance leases. The Company determines if an arrangement is a lease at inception. Operating lease right-of-use assets are included in Other Assets and operating lease liabilities are included in both other Current Liabilities and Other Liabilities in the Consolidated Balance Sheets for their respective short-term and long-term portions and are recognized based on the present value of lease payments over the lease term at the commencement date. Finance leases are included in property, plant and equipment and debt obligations, in the Consolidated Balance Sheets and are recognized based on the present value of lease payments over the lease term at commencement date. The majority of the Company's leases do not provide an implicit rate of return; therefore, the Company uses its incremental borrowing rate based on the information available at commencement date in determining the present value of lease payments. For lease agreements that contain non-lease components, the Company elected to combine lease and non-lease components as a single lease component.

The Company has operating leases for land, office space, and certain Company vehicles and equipment and finance leases for certain Company vehicles and equipment. The leases are expiring between 2024 and 2045. Leases with an initial term of twelve months or less are not recorded on the balance sheets. Lease expense is recognized on a straight-line basis over the lease term. For purposes of calculating operating lease liabilities, lease terms may be deemed to include options to extend or terminate the lease when it is reasonably certain that the Company will exercise that option. As of December 31, 2023, the operating lease liability does not include any options to extend or terminate leases.

Presentation of Taxes Collected

The Company reports a value-added tax assessed by a governmental authority that is directly imposed on a revenue-producing transaction between the Company and a customer on a net basis (excluded from revenues).

Foreign Currency Transactions

Foreign currency transactions are transactions denominated in a currency other than a subsidiary's functional currency. A change in the exchange rates between a subsidiary's functional currency and the currency in which a transaction is denominated increases or decreases the expected amount of functional currency cash flows upon settlement of the transaction. That increase or decrease in functional currency cash flows, which occurs upon an actual transfer of one currency to another, is reported by the Company as a foreign currency transaction gain (loss). The primary component of the Company's foreign currency transaction gain (loss) is due to agreements in place with certain subsidiaries in foreign countries regarding intercompany transactions. The Company anticipates repayment of these transactions in the foreseeable future and recognizes the realized and unrealized gains or losses on these transactions that result from foreign currency changes in the period in which they occur as foreign currency transaction gain (loss).

Foreign Currency Translation

The assets and liabilities of the Company's foreign subsidiaries are translated at the exchange rates in effect on the reporting date. Income and expenses are translated at the average exchange rate during the period. The net effect of such translation gains and losses are reflected within AOCI in the stockholders' equity (deficit) section of the Consolidated Balance Sheets. If there is a planned or completed sale or liquidation of the Company's ownership in a foreign operation, the relevant foreign currency translation adjustment is recognized in the Consolidated Statement of Operations.

Convertible Instruments

The Company evaluates and accounts for conversion options embedded in convertible instruments in accordance with ASC 815, *Derivatives and Hedging* Activities. Applicable U.S. Generally Accepted Accounting Principles ("GAAP") requires companies to bifurcate conversion options from their host instruments and account for them as free standing derivative financial instruments according to certain criteria. The criteria include circumstances in which (a) the economic characteristics and risks of the embedded derivative instrument are not clearly and closely related to the economic characteristics and risks of the host contract, (b) the hybrid instrument that embodies both the embedded derivative instrument and the host contract is not remeasured at fair value under other GAAP with changes in fair value reported in earnings as they occur and (c) a separate instrument with the same terms as the embedded derivative instrument would be considered a derivative instrument. The Company accounts for convertible instruments, when it has been determined that the embedded conversion options should not be bifurcated from their host instruments, as follows: The Company records, when necessary, discounts to convertible notes for the intrinsic value of conversion options embedded in debt instruments based upon the differences between the fair value of the underlying common stock at the commitment date of the note transaction and the effective conversion price embedded in the note. Debt discounts under these arrangements are amortized over the term of the related debt to their stated date of redemption. The Company accounts for the conversion of convertible debt when a conversion option has been bifurcated using the general extinguishment standards. The debt and equity linked derivatives are removed at their carrying amounts and the shares issued are measured at their then-current fair value, with any difference recorded as a gain or loss on extinguishment of the two separate accounting liabilities.

Deferred Financing Costs

The Company capitalizes certain expenses incurred in connection with its debt and line of credit obligations and amortizes them over the term of the respective debt agreement. The amortization expense of the deferred financing costs is included in interest expense on the Consolidated Statements of Operations. If the Company extinguishes portions of its debt prior to the maturity date, deferred financing costs are charged to expense on a pro-rata basis and are included in loss on early extinguishment or restructuring of debt on the Consolidated Statements of Operations.

Use of Estimates

The preparation of consolidated financial statements in conformity with GAAP requires management to make estimates and assumptions. These estimates and assumptions affect the reported amounts of assets and liabilities and disclosures of contingent assets and liabilities at the date of the consolidated financial statements and the reported amounts of net revenue and expenses during the reporting period. Actual results may differ from these estimates. Significant estimates include allowance for doubtful accounts receivable, the extent of progress towards completion on contracts, contract revenue and costs on long-term contracts, valuation of certain investments, market assumptions used in estimating the fair values of certain assets (including goodwill and intangibles) and liabilities, the calculation used in determining the fair value of INNOVATE's stock options required by ASC 718, *Compensation - Stock Compensation* ("ASC 718"), income taxes and various other contingencies.

Estimates of fair value represent the Company's best estimates developed with the assistance of independent appraisals or various valuation techniques and, where the foregoing have not yet been completed or are not available, industry data and trends and by reference to relevant market rates and transactions. The estimates and assumptions are inherently subject to significant uncertainties and contingencies beyond the control of the Company. Accordingly, the Company cannot provide assurance that the estimates, assumptions, and values reflected in the valuations will be realized, and actual results could vary materially.

Share-Based Compensation

The Company accounts for share-based compensation issued to employees and non-employees in accordance with the provisions of ASC 718. All transactions in which goods or services are the consideration received for the issuance of equity instruments are accounted for using a fair-value based method. The Company records share-based compensation expense for all new and unvested stock options that are ultimately expected to vest as the requisite service is rendered. The Company issues new shares of common stock upon the exercise of stock options.

The Company uses a Black-Scholes option valuation model to determine the grant date fair value of share-based compensation under ASC 718. The Black-Scholes model incorporates various assumptions including the expected term of awards, volatility of stock price, risk-free rates of return and dividend yield. The expected term of an award is no less than the option vesting period and is based on the Company's historical experience. Expected volatility is based upon the historical volatility of the Company's stock price. The risk-free interest rate is approximated using rates available on U.S. Treasury securities with a remaining term similar to the option's expected life. The Company uses a dividend yield of zero in the Black-Scholes option valuation model as it does not anticipate paying cash dividends in the foreseeable future. Share-based compensation is recorded net of actual forfeitures.

Income (Loss) Per Common Share

Basic income (loss) per common share is computed using the weighted average number of shares of common stock outstanding during the period. Diluted income (loss) per common share is computed using the weighted average number of shares of common stock, adjusted for the dilutive effect of potential common stock equivalents and related income from continuing operations, net of tax. Potential common stock equivalents, computed using the treasury stock method or the if-converted method, include options, restricted stock, restricted stock units and convertible preferred stock.

In periods when the Company generates income, the Company calculates basic Earnings Per Share ("EPS") using the two-class method, pursuant to ASC No. 260, *Earnings Per Share*. The two-class method is required as the shares of the Company's preferred stock qualify as participating securities, having the right to receive dividends should dividends be declared on common stock. Under this method, earnings for the period are allocated to the common stock and preferred stock to the extent that each security may share in earnings as if all of the earnings for the period had been distributed. The Company does not use the two-class method in periods when it generates a loss as the holders of the preferred stock do not participate in losses.

Discontinued Operations

In accordance with ASC 205-20, *Presentation of Financial Statements - Discontinued Operations*, the Company reports the results of operations of a business as discontinued operations if a disposal represents a strategic shift that has or will have a major effect on the Company's operations and financial results when the business is disposed of or classified as held-for-sale. Under ASC 360, *Property, Plant and Equipment*, assets may be classified as held-for-sale even though the discontinued operations criteria is not met. For the years ended December 31, 2023 and 2022, there were no discontinued operations.

Recent Accounting Pronouncements

Accounting Pronouncements Adopted in the Current Year

Credit Losses Standard

In June 2016, the FASB issued ASU 2016-13, *Financial Instruments - Credit Losses (Topic 326)*, *Measurement of Credit Losses on Financial Instruments*. This new standard and its related amendments change the impairment model for most financial assets that are measured at amortized cost and certain other instruments, including trade receivables and contract assets, from an incurred loss model to an expected loss model and adds certain new required disclosures. Under the new expected loss model, which is based on historical experience, current conditions and reasonable and supportable forecasts, entities recognize estimated credit losses over the entire contractual term of the instrument rather than delaying recognition of credit losses until it is probable the loss has been incurred.

The adoption of ASU 2016-13 and its related amendments on January 1, 2023, did not have any effect on the Company's Consolidated Financial statements and the Company did not record any effects through retained earnings. For the amounts calculated for the Current Expected Credit Loss ("CECL") model subsequent to initial transition, the Company recognizes the expense in the Consolidated Statements of Operations, and the amount is presented within general and administration costs rather than a separate line. Refer to Note 4. Accounts Receivable, Net.

The Company reviewed its entire portfolio of assets recognized on the balance sheet as of January 1, 2023, and identified Accounts Receivable and Contract Assets as the material impacted assets in-scope of Topic 326. The risk of credit losses from the remaining portfolio of assets was concluded to be immaterial. Accounts Receivable and Contract Assets are presented net of allowances for credit losses. Refer to Note 4. Accounts Receivable, Net.

Accounting Pronouncements Issued But Pending Adoption

In March 2023, the FASB issued ASU 2023-01, *Leases (Topic 842): Common Control Arrangements ("ASU 2023-01") to improve the guidance for applying Topic 842*, Leases, to related party arrangements between entities under common control. ASU 2023-01 improves current GAAP by clarifying the accounting for leasehold improvements associated with common control leases, thereby reducing diversity in practice. The provisions of this ASU that apply to public companies include a requirement for entities to amortize leasehold improvements associated with common control leases over the useful life of the common control group. ASU 2023-01 is effective for fiscal years, and for interim periods within those fiscal years, beginning after December 15, 2023, with early adoption permitted. The Company is currently evaluating this ASU but does not expect ASU 2023-01 to have a material effect on the Company's consolidated financial statements.

On October 9, 2023, the FASB issued ASU 2023-06 *Disclosure Improvements: Codification Amendments in Response to the SEC's Disclosure Update and Simplification Initiative ("ASU 2023-06")*, which modifies certain disclosure and presentation requirements of a variety of Topics in the Codification and is intended to both clarify or improve such requirements and align the requirements with the SEC's regulations. The Company is in the process of evaluating the amendments provided in this ASU and believes certain of the disclosure improvements may be applicable to the Company's interim or annual disclosures, for example, disclosures related to: earnings-per-share computation for dilutive securities, preferred stock, amounts and terms of unused lines of credit and unfunded commitments and the weighted-average interest rate on short-term borrowings. The effective date for each amendment is the effective date of the removal of the related disclosure from Regulation S-X or Regulation S-K, with early adoption prohibited. The Company will apply the provisions prospectively as such provisions become effective and does not expect ASU 2023-06 to have a material impact on the Company's consolidated financial statements.

On November 27, 2023, the FASB issued ASU 2023-07, *Segment Reporting (Topic 280): Improvements to Reportable Segment Disclosures ("ASU 2023-07").* ASU 2023-07 improves reportable segment disclosure requirements to enable investors to better understand an entity's overall performance, primarily through enhanced disclosures about significant segment expenses. In addition, ASU 2023-07 enhances interim disclosure requirements, clarifies circumstances in which an entity can disclose multiple segment measures of profit or loss, provides new segment disclosure requirements for entities with a single reportable segment, and contains other disclosure requirements such as those related to the Company's Chief Operating Decision Maker ("CODM"). ASU 2023-07 is effective for fiscal years beginning after December 15, 2023, and interim periods within fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating this ASU, which will only have an effect on the disclosures within the Company’s consolidated financial statements.

On December 14, 2023, the FASB issued ASU 2023-09, *Income Taxes (Topic 740): Improvements to Income Tax Disclosures ("ASU 2023-09").* ASU 2023-09 improves income tax disclosure requirements related to rate reconciliation income taxes paid and other miscellaneous tax disclosures to enhance their transparency and decision usefulness to investors. These enhancements allow investors to better assess how an entity's operations, related tax risks, tax planning and operational opportunities affect its tax rate and prospects for future cash flows. ASU 2023-09 is effective for fiscal years beginning after December 15, 2024, with early adoption permitted. The Company is currently evaluating this ASU, which will only have an effect on the disclosures within the Company’s consolidated financial statements.

Subsequent Events

ASC 855, *Subsequent Events* requires the Company to evaluate events that occur after the balance sheet date as of which the financial statements are issued, and to determine whether adjustments to or additional disclosures in the financial statements are necessary. Refer to Note 22. Subsequent Events.

3. Revenue and Contracts in Process

ASC 606 aligns revenue recognition with the timing of when promised goods or services are transferred to customers in an amount that reflects the consideration to which the Company expects to be entitled in exchange for those goods or services. To achieve this core principle, the Company applies the following five steps in accordance with ASC 606:

Identify the contract with a customer

A contract with a customer exists when: (a) the parties have approved the contract and are committed to perform their respective obligations, (b) the rights of the parties can be identified, (c) payment terms can be identified, (d) the arrangement has commercial substance, and (e) collectability of consideration is probable. Judgment is required when determining if the contractual criteria are met, specifically in the earlier stages of a project when a formally executed contract may not yet exist. In these situations, the Company evaluates all relevant facts and circumstances, including the existence of other forms of documentation or historical experience with our customers that may indicate a contractual agreement is in place and revenue should be recognized. In determining if the collectability of consideration is probable, the Company considers the customer’s ability and intention to pay such consideration through an evaluation of several factors, including an assessment of the creditworthiness of the customer and our prior collection history with such customer.

Identify the performance obligations in the contract

At contract inception, the Company assesses the goods or services promised in a contract and identifies, as a separate performance obligation, each distinct promise to transfer goods or services to the customer. The identified performance obligations represent the "unit of account" for purposes of determining revenue recognition. In order to properly identify separate performance obligations, the Company applies judgment in determining whether each good or service provided is: (a) capable of being distinct, whereby the customer can benefit from the good or service either on its own or together with other resources that are readily available to the customer, and (b) distinct within the context of the contract, whereby the transfer of the good or service to the customer is separately identifiable from other promises in the contract.

In addition, when assessing performance obligations within a contract, the Company considers the warranty provisions included within such contract. To the extent the warranty terms provide the customer with an additional service, other than assurance that the promised good or service complies with agreed upon specifications, such warranty is accounted for as a separate performance obligation. In determining whether a warranty provides an additional service, the Company considers each warranty provision in comparison to warranty terms which are standard in the industry.

Determine the transaction price

The transaction price represents the amount of consideration to which the Company expects to be entitled in exchange for transferring promised goods or services to our customers. The consideration promised within a contract may include fixed amounts, variable amounts, or both. To the extent the performance obligation includes variable consideration, including contract bonuses and penalties that can either increase or decrease the transaction price, the Company estimates the amount of variable consideration to be included in the transaction price utilizing one of two prescribed methods, depending on which method better predicts the amount of consideration to which the entity will be entitled. Such methods include: (a) the expected value method, whereby the amount of variable consideration to be recognized represents the sum of probability weighted amounts in a range of possible consideration amounts, and (b) the most likely amount method, whereby the amount of variable consideration to be recognized represents the single most likely amount in a range of possible consideration amounts. When applying these methods, the Company considers all information that is reasonably available, including historical, current and estimates of future performance.

Variable consideration is included in the transaction price only to the extent it is probable, in the Company's judgment, that a significant future reversal in the amount of cumulative revenue recognized under the contract will not occur when the uncertainty associated with the variable consideration is subsequently resolved. This threshold is referred to as the variable consideration constraint. In assessing whether to apply the variable consideration constraint, the Company considers if factors exist that could increase the likelihood or the magnitude of a potential reversal of revenue, including, but not limited to, whether: (a) the amount of consideration is highly susceptible to factors outside of the Company's influence, such as the actions of third parties, (b) the uncertainty surrounding the amount of consideration is not expected to be resolved for a long period of time, (c) the Company's experience with similar types of contracts is limited or that experience has limited predictive value, (d) the Company has a practice of either offering a broad range of price concessions or changing the payment terms and conditions of similar contracts in similar circumstances, and (e) the contract has a large number and broad range of possible consideration amounts.

Pending change orders represent one of the most common forms of variable consideration included within contract value and typically represent contract modifications for which a change in scope has been authorized or acknowledged by our customer, but the final adjustment to contract price is yet to be negotiated. In estimating the transaction price for pending change orders, the Company considers all relevant facts, including documented correspondence with the customer regarding acknowledgment and/or agreement with the modification, as well as historical experience with the customer or similar contractual circumstances. Based upon this assessment, the Company estimates the transaction price, including whether the variable consideration constraint should be applied.

Changes in the estimates of transaction prices are recognized on a cumulative catch-up basis in the period in which the revisions to the estimates are made. Such changes in estimates can result in the recognition of revenue in a current period for performance obligations which were satisfied or partially satisfied in prior periods. Such changes in estimates may also result in the reversal of previously recognized revenue if the ultimate outcome differs from the Company's previous estimate.

Allocate the transaction price to performance obligations in the contract

For contracts that contain multiple performance obligations, the Company allocates the transaction price to each performance obligation based on a relative standalone selling price. The Company determines the standalone selling price based on the price at which the performance obligation would have been sold separately in similar circumstances to similar customers. If the standalone selling price is not observable, the Company estimates the standalone selling price taking into account all available information such as market conditions and internal pricing guidelines. In certain circumstances, the standalone selling price is determined using an expected profit margin on anticipated costs related to the performance obligation.

Recognize revenue as performance obligations are satisfied

The Company recognizes revenue at the time the related performance obligation is satisfied by transferring a promised good or service to its customers. A good or service is considered to be transferred when the customer obtains control. The Company can transfer control of a good or service and satisfy its performance obligations either over time or at a point in time. The Company transfers control of a good or service over time and, therefore, satisfies a performance obligation and recognizes revenue over time if one of the following three criteria are met: (a) the customer simultaneously receives and consumes the benefits provided by the Company's performance as we perform, (b) the Company's performance creates or enhances an asset that the customer controls as the asset is created or enhanced, or (c) the Company's performance does not create an asset with an alternative use to us, and we have an enforceable right to payment for performance completed to date.

For performance obligations satisfied over time, the Company recognizes revenue by measuring the progress toward complete satisfaction of that performance obligation. The selection of the method to measure progress towards completion can be either an input method or an output method and requires judgment based on the nature of the goods or services to be provided.

Revenue from contracts with customers consists of the following (in millions):

	Year Ended December 31,	
	2023	2022
Infrastructure	$ 1,397.2	$ 1,594.3
Life Sciences	3.3	4.3
Spectrum	22.5	38.7
Total revenue	$ 1,423.0	$ 1,637.3

Accounts receivables, net, from contracts with customers consist of the following (in millions):

	December 31,	
	2023	2022
Infrastructure	$ 271.5	$ 244.5
Life Sciences	0.3	0.8
Spectrum	1.4	5.1
Total accounts receivables with customers	$ 273.2	$ 250.4

As of January 1, 2022, total accounts receivable, net, from contracts with customers were $236.5 million.

Infrastructure Segment

DBMG performs its services primarily under fixed-price contracts and recognizes revenue over time using the input method to measure progress for its projects. The nature of the projects does not provide measurable value to the customer over time and control does not transfer to the customer at discrete points in time. There is typically no alternative use to the Company for the partially completed construction project, resulting in the recognition of revenue over time as progress is made towards completion rather than at a single point in time. The customer receives value based on the amount of work that has been completed towards the delivery of the completed project. The most reliable measure of progress is the cost incurred towards delivery of the completed project. Therefore, the input method provides the most reliable method to measure progress. Revenue recognition begins when work has commenced. Costs include all direct material and labor costs related to contract performance, subcontractor costs, indirect labor, and fabrication plant overhead costs, which are charged to contract costs as incurred. Revenues relating to changes in the scope of a contract are recognized when DBMG and customer or general contractor have agreed on both the scope and price of changes, the work has commenced, and that realization of revenue exceeding the costs is assured beyond a reasonable doubt. Revisions in estimates during the course of contract work are reflected in the accounting period in which the facts requiring the revision become known. Provisions for estimated losses on uncompleted contracts are made in the period a loss on a contract becomes determinable.

Payment Terms

The timing of customer billings is generally dependent upon advance billing terms, milestone billings based on completion of certain phases of work, or when services are provided. Under the typical payment terms of master and other service agreements and fixed price contracts, the customer makes progress payments based on quantifiable measures of performance by the Company as defined by each specific agreement. Progress payments, generally net of amounts retained, are paid by the customer over the duration of the contract. Amounts billed and due from customers, as well as the amount of contract assets, are generally classified within current assets in the consolidated balance sheets. Refer to Contract Assets and Contract Liabilities below for related discussion. Amounts expected to be collected beyond one year are classified as other long-term assets.

Service Contracts

For service contracts (including maintenance contracts) where we have the right to consideration from the customer in an amount that corresponds directly with the value received by the customer based on our performance to date, revenue is recognized when services are performed and contractually billable. For all other types of service contracts, revenue is recognized over time using the input method to measure progress because it best depicts the transfer of value to the customer. Costs include all direct material and labor costs, subcontractor costs, and allocated overhead costs related to contract performance.

Construction contracts with customers generally provide that billings are to be made monthly in amounts which are commensurate with the extent of performance under the contracts. Contract receivables arise principally from the balance of amounts due on progress billings on jobs under construction. Retention on contract receivables are amounts due on progress billings, which are withheld until a future period.

Disaggregation of Revenues

DBMG's revenues are principally derived from contracts to provide fabrication and erection services to its customers. Contracts represent majority of the revenue of the Infrastructure segment and are generally recognized over time. A majority of contracts are domestic, fixed priced, and are within one year. Disaggregation of the Infrastructure segment, by market or type of customer, is used to evaluate its financial performance.

The following table disaggregates DBMG's revenue by market (in millions):

	Year Ended December 31,	
	2023	2022
Industrial	$ 403.0	$ 409.5
Commercial	382.9	794.0
Transportation	292.3	50.2
Healthcare	165.5	129.9
Convention	124.2	136.2
Government	11.2	34.8
Energy	9.2	15.8
Leisure	8.1	23.4
Total revenue from contracts with customers	$ 1,396.4	$ 1,593.8
Other revenue	0.8	0.5
Total Infrastructure segment revenue	$ 1,397.2	$ 1,594.3

Contract Assets and Contract Liabilities

The timing of revenue recognition may differ from the timing of invoicing to customers. Contract assets include unbilled amounts from our long-term construction projects when revenue recognized under the cost-to-cost measure of progress exceed the amounts invoiced to our customers, as the amounts cannot be billed under the terms of our contracts. Such amounts are recoverable from our customers based upon various measures of performance, including achievement of certain milestones, completion of specified units or completion of a contract. In addition, many of our time and materials arrangements, as well as our contracts to perform turnaround services within the United States industrial services segment, are billed in arrears pursuant to contract terms that are standard within the industry, resulting in contract assets and/or unbilled receivables being recorded, as revenue is recognized in advance of billings. Our contract assets do not include capitalized costs to obtain and fulfill a contract.

Contract liabilities from our long-term construction contracts occur when amounts invoiced to our customers exceed revenues recognized. Contract liabilities additionally include advanced payments from our customers on certain contracts. Contract liabilities decrease as we recognize revenue from the satisfaction of the related performance obligation.

The Company classifies contract assets and liabilities that may be settled beyond one year from the balance sheet date as current, consistent with the length of time of the Company’s project operating cycle.

Retainage receivable represents amounts invoiced to customers where payments have been partially withheld (usually less than 10%) pending the completion of certain milestones, satisfaction of other contractual conditions or the completion of the project. Retainage agreements vary from project to project and balances could be outstanding for several months or years depending on a number of circumstances, such as contract-specific terms, project performance and other variables that may arise as the Company makes progress toward completion. As of December 31, 2023 and 2022, the total retainage receivable was $120.6 million and $127.8 million, respectively, and the amount of retainage receivable estimated by management to be collected beyond one year is approximately 9.0% and 20.7% of the balance, respectively.

When payment of the retainage is contingent upon the Company fulfilling its obligations under the contract it does not meet the criteria to be included in accounts receivable and remains in the contract’s respective contract assets or contract liability, determined on a contract-by-contract basis. The Company has reflected such amounts within the Consolidated Balance Sheets.

Contract assets and contract liabilities and recognized earnings consisted of the following (in millions):

	Year Ended December 31,	
	2023	2022
Costs incurred on contracts in progress	$ 2,811.8	$ 2,503.3
Estimated earnings	510.1	378.9
Contract revenue earned on uncompleted contracts	3,321.9	2,882.2
Less: progress billings	3,356.8	2,815.7
	$ (34.9)	$ 66.5
The above is included in the accompanying Consolidated Balance Sheets under the following line items:		
Contract assets	$ 118.6	$ 165.1
Contract liabilities	(153.5)	(98.6)
	$ (34.9)	$ 66.5

	Year Ended December 31,	
	2023	2022
Cost in excess of billings	$ 73.8	$ 90.7
Conditional retainage	44.8	74.4
Contract assets	$ 118.6	$ 165.1
Billings in excess of costs	$ (229.3)	$ (152.0)
Conditional retainage	75.8	53.4
Contract liabilities	$ (153.5)	$ (98.6)

As of January 1, 2022, contract assets were $118.6 million and contract liabilities were $79.1 million.

The change in contract assets during the year ended December 31, 2023 is a result of the recording of $86.6 million of contract assets driven by new commercial projects, offset by $133.1 million of contract assets transferred to receivables from contract assets recognized at the beginning of the year.

The change in contract liabilities during the year ended December 31, 2023 is a result of periodic contract liabilities of $146.2 million driven largely by new commercial projects, offset by revenue recognized that was included in the contract liability balance at the beginning of the year in the amount of $91.3 million.

Transaction Price Allocated to Remaining Unsatisfied Performance Obligations

As of December 31, 2023, the transaction price allocated to remaining unsatisfied performance obligations consisted of the following (in millions):

	Within One Year	Within Five Years	Total
Healthcare	$ 200.5	$ 262.0	$ 462.5
Industrial	193.5	1.0	194.5
Transportation	180.9	37.9	218.8
Commercial	140.1	1.0	141.1
Government	11.9	—	11.9
Convention	9.5	—	9.5
Energy	2.6	—	2.6
Leisure	1.3	—	1.3
Remaining unsatisfied performance obligations	$ 740.3	$ 301.9	$ 1,042.2

DBMG's remaining unsatisfied performance obligations increase with awards of new contracts and decrease as it performs work and recognizes revenue on existing contracts. DBMG includes a project within its remaining unsatisfied performance obligations at such time the project is awarded and agreement on contract terms has been reached. DBMG's remaining unsatisfied performance obligations include amounts related to contracts for which a fixed price contract value is not assigned when a reasonable estimate of total transaction price can be made. DBMG expects to recognize this revenue approximately within the next 3.5 years.

Remaining unsatisfied performance obligations include unrecognized revenues to be realized from uncompleted construction contracts. Although many of DBMG's contracts are subject to cancellation at the election of its customers, in accordance with industry practice, DBMG does not limit the amount of unrecognized revenue included within its remaining unsatisfied performance obligations due to the inherent substantial economic penalty that would be incurred by its customers upon cancellation.

Life Sciences Segment

Beginning in 2021, R2 Technologies commercially launched its first product, Glacial Rx. Combined with other topical consumables, the Glacial Rx system is sold to medical practices and is intended to be operated by a trained health care professional. Beginning in 2022, R2 Technologies commercially launched its second product in China, Glacial Spa. This product launched into the United States and Canada in 2023, marketed as Glacial fx. This device is sold into nonmedical markets and is a cooling experience used to even skin tone and brighten and lighten skin. It is intended to be operated by a trained esthetician.

Glacial Rx and Glacial fx are sold in North America using a direct sales force. In certain cases, these systems are leased for a small, initial upfront fee and recurring lease payments over a specified timeframe. Glacial fx is also sold in Canada. The Glacial Spa system is currently sold in China and distributed by Huadong’s existing sales force to spas.

To operate the systems, kits containing a cycle card with a set number of cycles must be purchased. Once the cycles are exhausted, practices can purchase additional cards with additional cycles resulting in recurring revenues to R2 Technologies. Further, certain topical consumables are required to be utilized in conjunction with the systems also resulting in recurring revenues to R2 Technologies.

Within North America, revenue is recognized on shipment. For international sales, shipping terms are Ex Works, wherein R2 makes its products available at a specific location, but the buyer is required to pay the transportation costs. Revenue is recognized once an agreed upon freight carrier is selected and goods are picked up by the freight carrier.

Payment Terms

In both North America and internationally, R2 generally requires customers to remit payment upfront prior to shipment. These payment terms are expressly stated in the standard terms and conditions. In certain circumstances within North America, R2 accepts longer payment terms not to exceed one year. Any payment plan variation is expressly disclosed in the master services agreement which is required to be signed in conjunction with each sale by every customer. The invoiced amount to be received is recorded in Accounts Receivable, Net, on the Consolidated Balance Sheet.

The following table disaggregates the Life Sciences segment's revenue by type (in millions):

	Year Ended December 31,	
	2023	2022
Systems and consumables revenue	$ 3.3	$ 4.3
Total Life Sciences segment revenue	$ 3.3	$ 4.3

Spectrum Segment

Broadcast station revenue is generated primarily from the sale of television airtime in return for a fixed fee or a portion of the related ad sales recognized by the third party. In a typical broadcast station revenue agreement, the licensee of a station makes available, for a fee, airtime on its station to a party which supplies content to be broadcast during that airtime and collects revenue from advertising aired during such content. Broadcast station revenue is recognized over the life of the contract, when the program is broadcast. The fees that we charge can be fixed or variable and the contracts that the Company enters into are generally short-term in nature. Variable fees are usage/sales-based and recognized as revenue when the subsequent usage occurs. Transaction prices are based on the contract terms, with no material judgments or estimates.

Network advertising revenue is generated primarily from the sale of television airtime for programs or advertisements. Network advertising revenue is recognized when the program or advertisement is broadcast. Revenues are reported net of agency commissions, which are calculated as a stated percentage applied to gross billings. The Network advertising contracts are generally short-term in nature.

Network distribution revenue consists of payments received from cable, satellite and other multiple video program distribution systems for their retransmission of our network content. Network distribution revenue is recognized as earned over the life of the retransmission consent contract and varies from month to month. Variable fees are usage/sales based, calculated on the average number of subscribers, and recognized as revenue when the usage occurs. Transaction prices are based on the contract terms, with no material judgments or estimates.

Payment Terms

We have an unconditional right to receive payment of the amount billed generally within 30 days of the invoice date. Payment terms are expressly stated in our standard terms and conditions. The invoiced amount to be received is recorded in Accounts Receivable on our Consolidated Balance Sheet.

Disaggregation of Revenues

The following table disaggregates the Spectrum segment's revenue by type (in millions):

	Year Ended December 31,	
	2023	2022
Broadcast station	$ 21.9	$ 19.6
Network advertising	—	14.8
Network distribution	—	2.8
Other	0.6	1.5
Total Spectrum segment revenue	$ 22.5	$ 38.7

Transaction Price Allocated to Remaining Unsatisfied Performance Obligations

As of December 31, 2023, the transaction price allocated to remaining unsatisfied performance obligations consisted of $10.9 million of broadcast station revenues of which $5.6 million is expected to be recognized within one year and $5.3 million is expected to be recognized within the next 3 years.

4. Accounts Receivable, Net

Accounts receivable, net, consisted of the following (in millions):

	December 31,	
	2023	2022
Contracts in progress	$ 271.7	$ 244.8
Unbilled retentions	—	0.2
Trade receivables	1.9	5.9
Other receivables	5.2	4.5
Allowance for expected credit losses [(1)(2)]	(0.4)	(0.5)
Total	$ 278.4	$ 254.9

(1) Allowance for doubtful accounts as of December 31, 2022, prior to the adoption of ASU 2016-13.
(2) There was no change to the allowance for expected credit losses as a result of the adoption of ASU 2016-13 on January 1, 2023.

As of January 1, 2022, total accounts receivable, net were $247.1 million.

For the year ended December 31, 2023, the Company recognized a net provision for expected credit losses of $2.3 million, of which $2.2 million related to a receivable at our Infrastructure segment expensed as a result of a legacy customer bankruptcy. For the year ended December 31, 2022, the Company recognized provisions for doubtful accounts of $0.9 million. Direct write-downs of accounts receivable charged against the allowance totaled $2.4 million and $1.0 million for the years ended December 31, 2023 and 2022, respectively.

5. Inventory

Inventory consisted of the following (in millions):

	December 31,	
	2023	2022
Raw materials and consumables	$ 21.0	$ 15.7
Work in process	0.6	1.2
Finished goods	0.8	2.0
Total inventory	$ 22.4	$ 18.9

6. Investments

The carrying values of the Company's investments were as follows (in millions):

	December 31, 2023			
	Measurement Alternative[1]	Equity Method	Fair Value	Total
Common stock	$ 0.9	$ 0.9	$ —	$ 1.8
Total	$ 0.9	$ 0.9	$ —	$ 1.8

	December 31, 2022			
	Measurement Alternative[1]	Equity Method	Fair Value	Total
Common stock	$ —	$ 3.0	$ —	$ 3.0
Preferred stock and fixed maturities	—	—	4.6	4.6
Put option	11.3	—	—	11.3
Investment in securities	—	40.6	—	40.6
Total	$ 11.3	$ 43.6	$ 4.6	$ 59.5

(1) The Company accounts for its equity securities without readily determinable fair values under the measurement alternative election of ASC 321, whereby the Company can elect to measure an equity security without a readily determinable fair value, that does not qualify for the practical expedient to estimate fair value (net asset value), at its cost minus impairment, if any.

The Company's investments as of December 31, 2023 are comprised of investments in MediBeacon, Triple Ring and Scaled Cell, and, as of December 31, 2022, were comprised of investments in MediBeacon, Triple Ring and HMN. The Company's investments in Scaled Cell and MediBeacon are measured using the equity method of accounting and the Company's investment in Triple Ring is measured using the measurement alternative method as of December 31, 2023. Until a partial sale of the Triple Ring common stock investment on November 30, 2023, the Triple Ring common stock investment was measured using the equity method of accounting (and on a one month lag basis) and the Triple Ring preferred stock investment was measured at fair value until it was sold on November 30, 2023. HMN was measured using the equity method investment method of accounting until it was sold on March 6, 2023.

The Company's share of net losses from its equity method investments totaled $9.4 million and $1.3 million for the years ended December 31, 2023 and 2022, respectively.

Triple Ring and Scaled Cell

On November 30, 2023, the Company sold 546,709 shares of its common stock of Triple Ring and 804,375 shares of its preferred stock of Triple Ring and exchanged 255,333 of Triple Ring common stock for 240,613 shares of Scaled Cell (valued at $0.9 million). As a part of this transaction, the Company received $5.0 million in cash proceeds and recognized a loss of $0.2 million on the sale of the investment, which is reflected in Other income (expense), net, in the Consolidated Statement of Operations for the year ended December 31, 2023. As of December 31, 2023, the Company holds 240,613 shares of Scaled Cell, representing a 20.1% interest.

Subsequent to the sale, the Company still holds 229,488 shares of common stock of Triple Ring, reflecting a 7.2% interest (1.9% on a fully diluted basis), and accounts for Triple Ring under the measurement alternative method as of December 31, 2023. As of December 31, 2022 and prior to the sale in November 2023, the Company held a 25.8% interest in Triple Ring.

MediBeacon

Pansend accounts for its preferred stock investment in MediBeacon under the equity method of accounting, inclusive of any fixed maturity securities (notes) issued by Pansend to MediBeacon. On March 15, 2022, MediBeacon issued Pansend a $4.5 million 8.0% convertible note due March 2025, increasing the total outstanding principal due by MediBeacon to Pansend to $5.0 million. Prior to December 6, 2023, MediBeacon issued $2.0 million in 12% convertible note payable to Pansend, increasing the total outstanding principal by MediBeacon to Pansend to $7.0 million. On December 6, 2023, MediBeacon terminated the $6.5 million of prior outstanding convertible notes with Pansend and simultaneously issued a new 12% convertible note with an aggregate original principal amount of $7.2 million, which comprised of the prior outstanding convertible principal amounts and unpaid accrued interest of $0.7 million which was capitalized into the new principal balance, with future interest payable upon maturity of the note. Subsequent to December 6, 2023, MediBeacon issued $2.0 million in 12% convertible notes payable to Pansend, and, as of December 31, 2023, the total outstanding principal by MediBeacon to Pansend was $9.7 million, comprised of $9.2 million of convertible notes and $0.5 million of secured notes payable. Subsequent to year end, on February 12, 2024, MediBeacon issued Pansend an additional $0.5 million 12% convertible note.

As a result of these modifications and additional note issuances with MediBeacon during the year ended December 31, 2023, Pansend recognized $4.7 million of equity method losses which were previously unrecognized because Pansend's carrying amount of its investment in MediBeacon had been previously reduced to zero.

On February 23, 2023, pursuant to its amended commercial partnership with Huadong Medicine Co. Ltd ("Huadong"), a publicly traded company on the Shenzhen Stock Exchange, MediBeacon issued $7.5 million of its preferred stock to Huadong, which decreased Pansend's ownership in MediBeacon from approximately 47.2% as of December 31, 2022 to approximately 46.2% subsequent to the transaction. As a result of this equity transaction, Pansend recognized a gain of $3.8 million in Other income (expense), net in the Consolidated Statements of Operations for the year ended December 31, 2023, which increased Pansend's carrying amount of its investment in MediBeacon. Concurrently, Pansend recognized equity method losses of $3.8 million which were previously unrecognized because Pansend's carrying amount of its investment in MediBeacon had been previously reduced to zero.

As of December 31, 2023, Pansend's carrying amount of its investment in MediBeacon remains at zero, inclusive of the $9.7 million in convertible notes which have been offset against recognized losses, and has cumulative unrecognized equity method losses relating to MediBeacon of $8.0 million.

For the years ended December 31, 2023 and 2022, Pansend earned $0.5 million and $0.3 million, respectively, of interest income from the convertible notes with MediBeacon.

HMN

On March 6, 2023, the Company, through New Saxon 2019 Limited ("New Saxon"), an indirect subsidiary of GMH, closed on the sale of its remaining 19% interest in HMN to subsidiaries and an affiliate of Hengtong Optic-Electric Co Ltd. The sale was consummated pursuant to the terms of a supplemental agreement entered into by the parties in June 2022. New Saxon received gross proceeds of $54.2 million and interest income of $0.5 million, of which $4.4 million was withheld for a foreign tax payment. For the year ended December 31, 2023, $15.9 million was distributed to GMH's non-controlling interest holders and redeemable non-controlling interest holders pursuant to the partnership agreement. New Saxon recognized a gain on sale of $12.2 million, which is included in Other income (expense), net in the Consolidated Statement of Operations for the year ended December 31, 2023.

7. Property, Plant and Equipment, Net

Property, plant and equipment, net, ("PP&E") consisted of the following (in millions):

	December 31,	
	2023	2022
Equipment, furniture and fixtures, and software	$ 210.7	$ 196.0
Building and leasehold improvements	42.9	44.8
Land	25.8	26.1
Construction in progress	4.8	8.4
Plant and transportation equipment	8.1	8.2
	$ 292.3	$ 283.5
Less: Accumulated depreciation	137.7	118.5
Total	$ 154.6	$ 165.0

Depreciation expense was $24.9 million and $25.6 million for the years ended December 31, 2023 and 2022, respectively. These amounts included $15.8 million and $15.0 million of depreciation expense recognized within cost of revenue for the years ended December 31, 2023 and 2022, respectively.

As of December 31, 2023 and 2022, the net book value of equipment under finance leases included in PP&E was $2.3 million and $2.1 million, respectively. As of December 31, 2023 and 2022, the gross value of capitalized internal-use software included in PP&E was $40.9 million and $35.6 million, respectively, and the net book value was $9.9 million and $5.6 million, respectively.

As of December 31, 2023, $3.1 million in assets held for sale are presented separately in the Consolidated Balance Sheet and primarily consist of two buildings and their associated building improvements at the Company's Infrastructure segment.

8. Goodwill and Intangibles, Net

Goodwill

The carrying amounts of goodwill by segment were as follows (in millions):

	Infrastructure	Spectrum	Total
Balance at December 31, 2021	$ 106.0	$ 21.4	$ 127.4
Translation	(0.3)	—	(0.3)
Balance at December 31, 2022	$ 105.7	$ 21.4	$ 127.1
Translation	—	—	—
Balance as of December 31, 2023	$ 105.7	$ 21.4	$ 127.1

Indefinite-lived Intangible Assets

The carrying amounts of indefinite-lived intangible assets were as follows (in millions):

	December 31,	
	2023	2022
FCC licenses	$ 106.3	$ 106.3
Total	$ 106.3	$ 106.3

For the year ended December 31, 2022, the Company recorded impairment charges of $0.2 million which are reflected in Other operating loss in the Consolidated Statements of Operations. The impairment charges related to non-core FCC licenses which were sold or expired in order to bring their carrying value equal to the agreed upon sales price prior to the execution of the sale or expiration. There were no impairment charges recorded to indefinite lived intangible assets for the year ended December 31, 2023.

The weighted-average period prior to the next renewal for FCC licenses was 6.2 years and 6.6 years as of December 31, 2023 and 2022, respectively, after taking into consideration licenses that were successfully renewed shortly after year-end. While broadcast television licenses are issued for a fixed period of time (generally eight years), renewals of these licenses have occurred routinely and at nominal cost. In addition, the Company does not believe that the expiration or non-renewal of any of its FCC licenses would have a material adverse effect on the expected future cash flows and profitability.

Definite Lived Intangible Assets

The gross carrying amounts and accumulated amortization of definite lived intangible assets by major intangible asset class were as follows (in millions):

		December 31,					
		2023			2022		
	Weighted-Average Original Useful Life	Gross Carrying Amount	Accumulated Amortization	Net	Gross Carrying Amount	Accumulated Amortization	Net
Trade names	15 years	$ 25.2	$ (9.4)	$ 15.8	$ 25.4	$ (8.0)	$ 17.4
Customer relationships and contracts	11 years	87.6	(44.2)	43.4	87.6	(35.4)	52.2
Channel sharing arrangements	35 years	12.6	(1.8)	10.8	12.6	(1.4)	11.2
Other	12 years	3.9	(1.3)	2.6	4.1	(1.1)	3.0
Total		$ 129.3	$ (56.7)	$ 72.6	$ 129.7	$ (45.9)	$ 83.8

For the year ended December 31, 2022, the Company recorded impairment charges to definite lived intangible assets of $1.5 million, which are reflected in Other operating loss in the Consolidated Statements of Operations. The impairment charges related to the impairment of the HC2 Network Program License Agreement ("PLA") due to a decline in performance. There were no impairment charges recorded to definite lived intangible assets for the year ended December 31, 2023.

Amortization expense for definite lived intangible assets was $11.1 million and $16.6 million for the years ended December 31, 2023 and 2022, respectively, and was included in Depreciation and amortization in the Consolidated Statements of Operations.

Amortization

Future estimated annual amortization expense for intangible assets as of December 31, 2023 is as follows (in millions):

	Estimated Amortization
2024	$ 7.4
2025	7.3
2026	6.8
2027	5.0
2028	5.0
Thereafter	41.1
Total	$ 72.6

9. Leases

Operating lease right-of-use-assets and assets held under finance leases are recognized in the Consolidated Balance Sheets within Other assets and Property, plant and equipment, net, respectively. Operating lease liabilities and finance lease liabilities are recognized in the Consolidated Balance Sheets within Other liabilities and Debt obligations, respectively. Right-of-use lease assets and lease liabilities consisted of the following (in millions):

	December 31,	
	2023	2022
Right-of-use assets:		
Operating lease (Other assets)	$ 58.0	$ 65.8
Finance lease (Property, plant and equipment, net)	2.3	2.1
Total right-of-use assets	$ 60.3	$ 67.9
Lease liabilities:		
Current portion of operating lease (Other current liabilities)	$ 13.5	$ 17.1
Non-current portion of operating lease (Other liabilities)	48.6	53.8
Finance lease (Debt obligations)	2.4	2.1
Total lease liabilities	$ 64.5	$ 73.0

The Company has entered into operating and finance lease agreements primarily for land, office space, equipment and vehicles, expiring between 2024 and 2045. For the year ended December 31, 2023, the Company recorded impairment charges to right-of-use assets of $0.6 million, primarily related to FCC licenses impaired. For the year ended December 31, 2022, the Company recorded an impairment charge to right-of-use-assets of $0.5 million. Impairment charges are included in Other operating loss in the Consolidated Statements of Operations.

For the years ended December 31, 2023 and 2022, the Company recorded short-term lease costs totaling $39.2 million and $34.8 million, respectively. Based on the short-term leases executed as of December 31, 2023, the Company expects that it will incur approximately $8.5 million in estimated short-term lease costs for the year ended December 31, 2024.

The tables below present financial information associated with the Company's leases as of, and for the years ended December 31, 2023 and 2022.

The following table summarizes the components of lease expense (in millions):

	Year Ended December 31,	
	2023	2022
Finance lease cost:		
Amortization of right-of-use assets	$ 0.4	$ 0.2
Interest on lease liabilities	0.2	0.1
Net finance lease cost	0.6	0.3
Operating lease cost	22.1	23.5
Variable lease cost	0.6	0.6
Sublease income	(0.7)	(0.7)
Total lease cost	$ 22.6	$ 23.7

Cash flow information related to leases is as follows (in millions):

	Year Ended December 31,	
	2023	2022
Cash paid for amounts included in the measurement of lease liabilities:		
Operating cash flows from finance leases	$ 0.2	$ 0.1
Financing cash flows from finance leases	$ 0.4	$ 0.2
Operating cash flows from operating leases	$ 22.8	$ 23.3
Right-of-use assets obtained in exchange for new lease liabilities:		
Finance leases	$ 0.8	$ 2.2
Operating leases	$ 9.3	$ 15.0

The weighted-average remaining lease term and the weighted-average discount rate for finance leases and operating leases are as follows:

	Year Ended December 31,	
	2023	2022
Weighted-average remaining lease term (years) - operating leases	7.5	7.5
Weighted-average remaining lease term (years) - finance leases	1.6	1.4
Weighted-average discount rate - operating leases	5.6 %	5.3 %
Weighted-average discount rate - finance leases	6.8 %	5.7 %

Future minimum lease commitments (undiscounted) as of December 31, 2023, were as follows (in millions):

	Operating Leases	Finance Leases
2024	$ 16.5	$ 1.8
2025	13.0	0.3
2026	9.6	0.2
2027	7.2	0.2
2028	5.5	0.1
Thereafter	24.0	—
Total future minimum lease payments	75.8	2.6
Less: amounts representing interest	(13.7)	(0.2)
Total lease liability balance	$ 62.1	$ 2.4

In November 2021, INNOVATE Corp. entered into a ten-year lease arrangement for a special purpose space in Palm Beach, Florida, which was amended in February 2023, to extend the term of the lease to 15 years, with future monthly lease payments of approximately $0.2 million over the entire lease term and annual common area maintenance charges of $0.6 million, both of which are subject to a 3% annual upward adjustment, with total square footage of 25,184, as amended. In December 2023, the Company entered into a sublease agreement with Palm Beach Cultural Innovation Center, Inc. (“PBCIC”), a Florida not-for-profit corporation and related party to Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, who is also on the board of directors of PBCIC. Pursuant to the sublease, the Company allows PBCIC use of the underlying space and, as consideration, PBCIC has agreed to undertake all of the tenant’s build-out costs and related obligations under the lease agreement between the Company, as tenant, and RPP Palm Beach Property LP, as landlord. As of December 31, 2023, the lease has not yet commenced. The Company previously recorded $1.1 million in prepaid rent related to this lease, which was written-off in December 2023 upon the execution of the sublease to PBCIC and is reflected in Other operating loss in the Consolidated Statement of Operations. The Company also incurred other expenses of $1.1 million since inception related to the special purpose space and PBCIC, of which $0.7 million and $0.4 million are reflected in Selling, general and administrative in the Consolidated Statement of Operations for the years ended December 31, 2023 and 2022, respectively.

In December 2021, the Company entered into a five-year lease agreement with an option to extend the lease for another five years for office space in West Palm Beach, Florida. The new lease has not commenced yet, but will require future monthly lease payments of approximately $0.1 million over the entire lease term, subject to 3% annual upward adjustment, with total square footage of 15,786. Other than a $0.2 million deposit included in Other assets, the future lease payments are not yet recorded on the Company's Consolidated Balance Sheets, as the building is still under construction. Management expects the accounting lease commencement date for this initial portion of the lease for financial reporting purposes to begin in 2024.

10. Other Assets, Accrued Liabilities and Other Liabilities

Other Current Assets

Other current assets consisted of the following (in millions):

	December 31,	
	2023	2022
Prepaid assets	$ 11.2	$ 10.4
Income tax receivable	2.1	5.3
Restricted cash - current	0.9	0.3
Other	0.4	1.1
Total other current assets	$ 14.6	$ 17.1

Other Assets

Other assets, which are reflected in non-current assets in the Consolidated Balance Sheets, consisted of the following (in millions):

	December 31,	
	2023	2022
Right-of-use assets	$ 58.0	$ 65.8
Restricted cash - non-current	0.6	1.5
Other	2.7	4.6
Total other assets	$ 61.3	$ 71.9

Accrued Liabilities

Accrued liabilities consisted of the following (in millions):

	December 31,	
	2023	2022
Accrued expenses	$ 14.3	$ 17.3
Accrued payroll and employee benefits	29.2	30.8
Accrued interest	17.1	15.3
Accrued sales and use taxes	9.8	1.6
Accrued income taxes	0.4	0.4
Total accrued liabilities	$ 70.8	$ 65.4

Restructuring Costs

DBMG incurred approximately $2.1 million and $6.5 million of restructuring costs for the years ended December 31, 2023 and 2022, which are included in Selling, general and administrative expenses in the Consolidated Statements of Operations. These costs relate to a one-time internal project to evaluate and revamp DBMG's internal operations and back-office functions across all departments, including finance & accounting, risk management, human resources, IT and purchasing to improve future state delivery models and reduce redundancy throughout the organization. There were no remaining amounts accrued as of December 31, 2023.

HC2 Network Shut-Down

On December 31, 2022, Broadcasting shut-down the operations and broadcasting of the Azteca America network and, terminated both the PLA and BSA with TV Azteca. HC2 Network did not qualify for discontinued operations presentation as HC2 Network was not significant to the Company, did not represent a strategic shift and would not have a major effect on the Company's operations and financial results. As a result of the cessation of the Azteca operations, the Company no longer has any unsatisfied performance obligations related to network advertising or network distribution. During the year ended December 31, 2022, the Company recognized employee-related termination costs of $0.7 million, which are included in Selling, general & administrative expenses in the Consolidated Statement of Operations, and a net loss of $30 thousand which is included in Other (expense) income, net, in the Consolidated Statement of Operations.

Other Liabilities

Other current liabilities consisted of the following (in millions):

	December 31,	
	2023	2022
Lease liability, current	$ 13.5	$ 17.1
Other current liabilities	2.6	3.0
Total other current liabilities	$ 16.1	$ 20.1

Other liabilities, which are reflected in non-current liabilities in the Consolidated Balance Sheets, consisted of the following (in millions):

	December 31,	
	2023	2022
Lease liability, net of current portion	$ 48.6	$ 53.8
Other	34.1	17.4
Total other liabilities	$ 82.7	$ 71.2

As of December 31, 2023 and 2022, there were $1.9 million and $1.7 million, respectively, of asset retirement obligations ("AROs") included in Other liabilities. Accretion expense relating to the AROs was $0.2 million and $0.1 million for the years ended December 31, 2023 and 2023, respectively.

As of December 31, 2023, there was $14.9 million of non-current accrued interest and $15.9 million of exit fees payable included in Other liabilities. As of December 31, 2022, there was $5.5 million of non-current accrued interest and $7.6 million of exit fees payable. Refer to Note 11. Debt Obligations for additional information on the exit fees.

11. Debt Obligations

Debt obligations, including finance lease obligations, consisted of the following (in millions):

	Year Ended December 31,	
	2023	2022
Infrastructure		
PRIME minus 0.85% Line of Credit due 2025	$ 100.0	$ 107.7
3.25% Term Loan due 2026	91.4	99.5
4.00% Note due 2024	5.0	15.0
8.00% Note due 2024	—	18.7
Obligations under finance leases	2.4	2.1
Total Infrastructure	$ 198.8	$ 243.0
Spectrum		
8.50% Note due 2025	$ 19.3	$ 19.3
11.45% Notes due 2025	50.4	50.4
Total Spectrum	$ 69.7	$ 69.7
Life Sciences		
20.00% Note due 2024	$ 17.4	—
18.00% Note due 2023	—	10.8
Total Life Sciences	$ 17.4	$ 10.8
Non-Operating Corporate		
8.50% Senior Secured Notes due 2026	$ 330.0	$ 330.0
7.50% Convertible Senior Notes due 2026	51.8	51.8
SOFR plus 5.75% Line of Credit	20.0	20.0
CGIC Unsecured Note due 2026	35.1	—
Total Non-Operating Corporate	$ 436.9	$ 401.8
Total outstanding principal	$ 722.8	$ 725.3
Unamortized issuance discount, issuance premium, and deferred financing costs	(13.0)	(10.9)
Less: current portion of debt obligations	(30.5)	(30.6)
Debt obligations	$ 679.3	$ 683.8

As of December 31, 2023, estimated future aggregate finance lease and debt payments, including interest, were as follows (in millions):

	Finance Leases	Debt	Total
2024	$ 1.8	$ 81.7	$ 83.5
2025	0.3	271.3	271.6
2026	0.2	502.2	502.4
2027	0.2	—	0.2
2028	0.1	—	0.1
Total minimum principal and interest payments	2.6	855.2	857.8
Less: Amount representing interest	(0.2)	(134.8)	(135.0)
Total aggregate finance lease and debt payments	$ 2.4	$ 720.4	$ 722.8

The interest rates on finance leases ranged from approximately 2.0% to 8.5%.

Infrastructure

DBMG has a $135.0 million Revolving Line with UMB that bears interest at a Prime Rate minus a spread. On December 12, 2023, DBMG and UMB entered into an amendment to the agreement that extended the maturity date of the Revolving Line from May 31, 2024 to August 15, 2025, increased the interest rate spread for the Revolving Line by 0.35% across all tiers, and established an interest rate floor of 4.25%. The effective interest rate on the Revolving Line was 8.33% and 6.88% as of December 31, 2023, and 2022, respectively. Interest is paid monthly. The Revolving Line also includes a commitment fee equal to 0.25% per annum times the average daily unused availability under the line. DBMG also has a $91.4 million UMB Term Loan, which expires May 31, 2026, and bears interest at an annual rate of 3.25% with an effective interest rate of 3.3%. Interest is paid monthly. The UMB Term Loan and UMB Revolving Line associated with the Infrastructure segment contain customary restrictive and financial covenants related to debt levels and performance, including a Fixed Charge Coverage Ratio covenant, as defined in their agreements.

The $5.0 million note expires March 31, 2024 and bears interest at an annual rate of 4.00%. Interest is paid quarterly. During the year ended December 31, 2023, DBM Global repaid the 8.00% note in full. Refer to Note 17. Related Parties for additional information.

Spectrum

On December 30, 2022, Broadcasting entered into a Seventh Omnibus Amendment to Secured Notes which, among other things, extended the maturity date of $52.2 million of its Senior Secured Notes, due December 30, 2022 to May 31, 2024. The $52.2 million of Senior Secured Notes consisted of $19.3 million of 8.5% Senior Secured Notes and $32.9 million of 10.5% Senior Secured Notes. The other terms of the $19.3 million 8.5% Senior Notes remained the same. At the time of the extension, Broadcasting had accrued interest and other fees of $6.9 million. The interest rate on the $32.9 million 10.5% Senior Notes was increased to 11.45% and cumulative accrued interest and exit fees of $17.5 million were capitalized into the principal balance with both note extensions accounted for as debt modification events. All other terms were essentially the same. Total outstanding principal after the refinancing was $69.7 million, and $6.9 million of accrued interest and fees remained accrued, with total exit fees of $7.6 million which were recorded as original issue discount with a corresponding liability reflected in Other Liabilities in the Consolidated Balance Sheet. Interest is capitalized and payable upon maturity of the principal.

Concurrently therewith and as part of the consideration for extending the 10.5% Senior Notes in December 2022, Broadcasting amended warrants to purchase 145,825 shares of common stock of HC2 Broadcasting Holdings, Inc. common stock held by the lenders of the 10.5% Senior Notes by extending the time to exercise such to the second half of 2026 and reducing the exercise price per share (i) from $140.00 to $0.01 in the case of the certain of the warrants and (ii) from $130.00 to $0.01 in the case of the remaining warrants. The warrants are exercisable at any time. The change in the fair value of the warrants was recorded as original issue discount with a corresponding impact reflected in Non-controlling interest of $3.1 million.

On August 8, 2023, Broadcasting entered into an Eighth Amendment to Secured Notes with its lenders which extended the maturity date of its Senior Secured Notes aggregate principal amount of $69.7 million, from May 31, 2024 to August 15, 2024. In exchange, Broadcasting incurred an additional exit fee of $1.1 million which was recorded as original issue discount with a corresponding liability reflected in Other Liabilities in the Consolidated Balance Sheet.

On November 9, 2023, Broadcasting entered into a Ninth Amendment to its Secured Notes with its lenders which extended the maturity date of its Senior Secured Notes aggregate principal amount of $69.7 million, from August 15, 2024 to August 15, 2025. In exchange, Broadcasting will pay additional exit fees of $7.2 million which are payable on the earlier of maturity or repayment of the principal. Interest is also capitalized and payable upon maturity of the principal. In addition, the time to exercise the related warrants was extended to August 2027. As of December 31, 2023, the effective interest rates on the notes, as amended, ranged from 20.6% to 24.0% per annum.

In addition, INNOVATE Corp. entered into a related side letter with the institutional investors, whereby INNOVATE Corp. has agreed to utilize proceeds from the sale of certain of its existing operations, as allowable under the Company's current agreements and indentures and after all other required payments have been made, for repayment of a portion of Broadcasting's Senior Secured Notes. Assuming there are sufficient proceeds remaining after such repayment, an additional $1.0 million fee is payable if repayment occurs by November 9, 2024, or $2.0 million if repayment occurs after that date. In exchange for the additional fee, the institutional investors will return their equity interests in HC2 Broadcasting Holdings, Inc. and equity interests in DTV America.

The Company accounted for the transactions related to the Eighth Amendment, Ninth Amendment and the side letter as debt modification events under US GAAP as the present value of cash flows under the amended terms of Broadcasting's Senior Secured Notes was less than 10% different from the present value of cash flows under the original terms of the notes. As a result of the modifications, and as of December 31, 2023, the Company has total capitalized estimated exit fees of $15.9 million, which are reflected in Other Liabilities in the Consolidated Balance Sheet.

Life Sciences

During the year ended December 31, 2022, R2 Technologies entered into various note purchase agreements with Lancer Capital, an entity controlled by Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, for an aggregate $10.8 million in notes at a 18% per annum interest rate as of December 31, 2022. During 2023, R2 closed on an additional $6.6 million of notes, including $1.3 million of unpaid accrued interest which was capitalized into the new principal balance, increasing the aggregate outstanding principal to $17.4 million as of December 31, 2023. The per annum interest rate on the outstanding principal balance also increased to 20%. In addition, after various amendments throughout 2023, R2 entered into an amendment with Lancer Capital on November 15, 2023 to extend the maturity date of all outstanding prior existing notes to the earlier of January 31, 2024 or within five business days of the date on which R2 receives an aggregate $20.0 million from the consummation of a debt or equity financing.

Subsequent to year end, the notes expired on January 31, 2024. Effective January 31, 2024, R2 and Lancer Capital simultaneously issued a new 20% note with an aggregate original principal amount of $20.0 million, which is comprised of the prior outstanding principal amounts and unpaid accrued interest of $2.6 million, which was capitalized into the new principal balance, with future interest payable monthly in arrears, in cash or, if not paid in cash, accrued and unpaid interest will be capitalized monthly into the principal balance. The maturity date of the new note is April 30, 2024 or within five business days of the date on which R2 Technologies receives an aggregate $20.0 million from the consummation of a debt or equity financing or has a change in control, as defined in the agreement, with an optional prepayment of the entire then-outstanding and unpaid principal and accrued interest upon five-days written notice to Lancer Capital. The new note also includes an exit fee payable upon the earliest of the maturity date, the acceleration date of the principal amount of the note, for any reason as defined in the agreement, or the date upon which any prepayment is made. The exit fee shall be equal to 10.20% if payment is made anytime from February 1, 2024 through February 29, 2024, 10.37% if payment is made anytime from March 1, 2024 through March 31, 2024, and 10.54% if payment is made anytime from April 1, 2024 through April 30, 2024.

For the years ended December 31, 2023 and 2022, R2 Technologies recognized interest expense related to the contractual interest coupon with Lancer Capital of $2.9 million and $0.8 million, respectively.

Non-Operating Corporate

2026 Senior Secured Notes

The $330.0 million aggregate principal amount of 8.50% senior secured notes due February 1, 2026 (the "2026 Senior Secured Notes") was issued in 2021 at 100% of par, with a stated annual interest rate of 8.50% and an effective interest rate of 9.3%, which reflects $10.8 million of deferred financing fees, including underwriting fees. For both the years ended December 31, 2023 and 2022, aggregate interest expense, including the contractual interest coupon and amortization of the deferred financing fees, was $30.1 million.

2026 Convertible Notes

The $51.8 million of 7.50% convertible notes (the "2026 Convertible Notes") were issued under a separate indenture dated February 1, 2021, between the Company and U.S. Bank, as trustee (the "Convertible Indenture"). The 2026 Convertible Notes were issued at 100% of par with a stated annual interest rate of 7.50%. The fair value of the embedded conversion feature contained in the 2026 Convertible Notes had a fair value of $12.3 million, which was recorded as a premium on the 2026 Convertible Notes. The 2026 Convertible Notes mature on August 1, 2026 unless earlier converted, redeemed or purchased. The 2026 Convertible Notes have an effective interest rate of 3.21%, which reflects the initial $12.3 million premium and $1.1 million of deferred financing fees.

Each $1,000 of principal of the 2026 Convertible Notes will initially be convertible into 234.2971 shares of our common stock, which is equivalent to an initial conversion price of approximately $4.27 per share, subject to adjustment upon the occurrence of specified events.

As of December 31, 2023, the 2026 Convertible Notes had a net carrying value of $57.3 million inclusive of an unamortized premium of $6.0 million and unamortized deferred financing costs of $0.5 million. Based on the closing price of our common stock of $1.23 on December 31, 2023, the if-converted value of the 2026 Convertible Notes did not exceed its principal value.

For both the years ended December 31, 2023 and 2022, aggregate interest expense recognized relating to both the contractual interest coupon and amortization of discount net of premium and deferred financing costs was $1.9 million.

2022 Convertible Notes

On June 1, 2022, the 2022 Convertible Notes of $3.2 million matured, and the Company repaid the principal and accrued interest upon maturity. For the year ended December 31, 2022, interest expense recognized relating to both the contractual interest coupon and amortization of the discount on the 2022 Convertible Notes was $0.2 million.

Revolving Line of Credit

The Company has a revolving credit agreement with MSD PCOF Partners IX, LLC ("MSD"), which has a maximum commitment of $20.0 million ("Revolving Line of Credit"). The Revolving Line of Credit has an interest rate margin applicable to loans borrowed under the Revolving Line of Credit of 5.75% and interest is paid quarterly. The Revolving Line of Credit also includes a commitment fee at a per annum rate of 1.0% calculated based off the actual daily amount of unused availability under the revolving credit line with MSD. On April 25, 2023, the Company extended the maturity date of its Revolving Credit Agreement from February 23, 2024, to March 16, 2025, and also changed the benchmark rates for interest to SOFR-based rates and lowered the amount of net cash proceeds from certain asset sales in excess of which a prepayment is required from $50.0 million to $10.0 million. The affirmative and negative covenants governing the Revolving Line of Credit are substantially consistent with the affirmative and negative covenants contained in the indenture that governs the 2026 Senior Secured Notes. In March 2023, the Company paid down $15.0 million of the Revolving Credit Agreement, and in May 2023 and July 2023, INNOVATE drew an aggregate additional $15.0 million under the Revolving Credit Agreement, bringing the outstanding balance to $20.0 million as of December 31, 2023.

CGIC Unsecured Note Due 2026

On May 9, 2023, in connection with the redemption of the DBMGi Preferred Stock, the Company issued a subordinated unsecured promissory note to Continental General Insurance Company ("CGIC") in the principal amount of $35.1 million (the "CGIC Unsecured Note"). Refer to Note 16. Temporary Equity and Equity for additional information. The CGIC Note is due February 28, 2026, and bears interest at 9% per annum through May 8, 2024, 16% per annum from May 9, 2024 to May 8, 2025, and 32% per annum thereafter, and the effective interest rate on the note is 18.1%. The CGIC Unsecured Note also requires a mandatory prepayment from the proceeds from certain asset sales and the greater of $3 million or 12.5% of the proceeds from certain equity sales. Other covenants in the CGIC Unsecured Note are generally consistent with the Company's Indenture governing the 8.50% Senior Secured Notes due 2026, dated as of February 1, 2021, by and among the Company, the guarantors party thereto and U.S. Bank National Association. For the year ended December 31, 2023, interest expense recognized relating to the CGIC Unsecured Note was $4.1 million and cash paid for interest to CGIC was $1.8 million.

2026 Senior Secured Notes Terms and Conditions

Maturity. The 2026 Senior Secured Notes mature on February 1, 2026.

Interest. The 2026 Senior Secured Notes accrue interest at a rate of 8.50% per year. Interest on the 2026 Senior Secured Notes is paid semi-annually on February 1 and August 1 of each year.

Issue Price. The issue price of the 2026 Senior Secured Notes was 100% of par.

Ranking. The notes and the note guarantees are the Company’s and certain of its direct and indirect domestic subsidiaries’ (the "Subsidiary Guarantors") general senior secured obligations. The notes and the note guarantees will rank: (i) senior in right of payment to all of the Company’s and the Subsidiary Guarantors’ future subordinated debt; (ii) equal in right of payment, subject to the priority of any First-Out Obligations (as defined in the Secured Indenture), with all of the Company’s and the Subsidiary Guarantors’ existing and future senior debt and effectively senior to all of its and the Subsidiary Guarantor’s unsecured debt to the extent of the value of the collateral; and (iii) effectively subordinated to all liabilities of its non-guarantor subsidiaries. The notes and the note guarantees are secured on a first-priority basis by substantially all of the Company’s assets and the assets of the Subsidiary Guarantors, subject to certain exceptions and permitted liens.

Collateral. The 2026 Senior Secured Notes are secured by a first priority lien on substantially all of the Company’s assets (except for certain "Excluded Assets," and subject to certain "Permitted Liens," each as defined in the Secured Indenture), including, without limitation:

- all equity interests owned by the Company or a Subsidiary Guarantor (which, in the case of any equity interest in a foreign subsidiary, will be limited to 100% of the non-voting stock (if any) and 65% of the voting stock of such foreign subsidiary) and the related rights and privileges associated therewith (but excluding Equity Interests of Insurance Subsidiaries (as defined in the Secured Indenture), to the extent the pledge thereof is deemed a "change of control" under applicable insurance regulations);
- all equipment, goods and inventory owned by the Company or a Subsidiary Guarantor;
- all cash and investment securities owned by the Company or a Subsidiary Guarantor;
- all documents, books and records, instruments and chattel paper owned by the Company or a Subsidiary Guarantor;
- all general intangibles owned by the Company or a Subsidiary Guarantor; and
- any proceeds and supporting obligations thereof.

The Secured Indenture permits the Company, under specified circumstances, to incur additional debt in the future that could equally and ratably share in the collateral. The amount of such debt is limited by the covenants contained in the Secured Indenture.

Restricted Payments. The Secured Indenture contains specific covenants which restrict the Company's ability and the ability of its restricted subsidiaries (as defined in the Secured Indenture) to incur certain additional indebtedness; make certain dividends, distributions, investments and other restricted payments; repay certain debt; sell certain assets; or enter into certain transactions with affiliates. These covenants are subject to a number of exceptions and qualifications. At December 31, 2023, the Company was in compliance with all covenants contained in the 2026 Senior Secured Notes.

Events of Default. The Secured Indenture contains customary events of default which could, subject to certain conditions, cause the 2026 Senior Secured Notes to become immediately due and payable.

2026 Convertible Notes Terms and Conditions

Maturity. The 2026 Convertible Notes mature on August 1, 2026 unless earlier converted, redeemed or purchased.

Interest. The 2026 Convertible Notes accrue interest at a rate of 7.5% per year. Interest on the 2026 Convertible Notes is paid semi-annually on February 1 and August 1 of each year.

Issue Price. The issue price of the 2026 Convertible Notes was 100% of par.

Ranking. The notes are the Company’s general unsecured and unsubordinated obligations and will rank equally in right of payment with all of the Company’s existing and future unsecured and unsubordinated indebtedness, and senior in right of payment to any of the Company’s future indebtedness that is expressly subordinated to the notes. The notes will be effectively subordinated to all of the Company’s existing and future secured indebtedness, including the Company’s 2026 Senior Secured Notes, to the extent of the value of the collateral securing that indebtedness, and structurally subordinated to all indebtedness and other liabilities of the Company’s subsidiaries, including trade credit.

Optional Redemption. As of August 1, 2023 and thereafter, the Company may redeem for cash all of the notes if the last reported sale price of the Company’s common stock has been at least 130% of the conversion price then in effect for at least 20 trading days (which need not be consecutive trading days) during any 30 consecutive trading-day period ending within five trading days prior to the date on which the Company provides notice of redemption. The redemption price will equal 100% of the principal amount of the notes being redeemed, plus accrued and unpaid interest, including additional interest, if any, to, but excluding, the redemption date.

Conversion Rights. The 2026 Convertible Notes are convertible into shares of the Company’s common stock based on an initial conversion rate of 234.2971 shares of common stock per $1,000 principal amount of Convertible Notes (equivalent to a conversion price of approximately $4.27 per share of the Company’s common stock), at any time prior to the close of business on the business day immediately preceding the maturity date, in principal amounts of $1,000 or an integral multiple of $1,000 in excess thereof. In addition, following a Make-Whole Fundamental Change (as defined in the Convertible Indenture) or the Company’s delivery of a notice of redemption for the 2026 Convertible Notes, the Company will, in certain circumstances, increase the conversion rate for a holder who elects to convert its 2026 Convertible Notes in connection with (i) such Make-Whole Fundamental Change or (ii) such notice of redemption. However, to comply with certain listing standards of The New York Stock Exchange, the Company will settle in cash its obligation to increase the conversion rate in connection with a Make-Whole Fundamental Change or redemption until it has obtained the requisite stockholder approval.

Events of Default. The Convertible Indenture contains customary events of default which could, subject to certain conditions, cause the 2026 Convertible Notes to become immediately due and payable. As of December 31, 2023, the Company was in compliance with all covenants contained in the 2026 Convertible Notes.

Revolving Credit Agreement

Lender. MSD PCOF Partners IX, LLC

Maturity. The Revolving Credit Agreement matures on March 16, 2025.

Ranking. Obligations under the Revolving Credit Agreement constitute a First-Out Debt, as defined in the Secured Indenture, and are secured on a pari passu basis with the 2026 Senior Secured Notes.

Collateral: As provided under a Collateral Trust Joinder, the lender was added as a secured party to the Collateral Trust Agreement, and accordingly the pari passu obligations and commitments under the Revolving Credit Agreement are secured equally and ratably by the collateral of the Secured Notes.

Any failure to comply with the restrictions in the agreements governing the Company's indentures, or any agreement governing other indebtedness the Company could incur, may result in an event of default under those agreements. Such default may allow the creditors to accelerate the related debt, which acceleration may trigger cross-acceleration or cross-default provisions in other debt.

2026 Unsecured CGIC Note:

Maturity. The 2026 Unsecured CGIC Note matures on February 28, 2026.

Interest. The 2026 Unsecured CGIC Notes accrues interest at a rate 9% per year through May 8, 2024, 16% per year from May 9, 2024 to May 8, 2025, and 32% per year thereafter. Interest on the 2026 Convertible Notes is paid monthly, on the last day of each month or next succeeding business day.

Issue Price. The issue price of the 2026 Unsecured CGIC Notes was 100% of par.

Ranking. The note is a part of the Company's general unsecured and unsubordinated obligations and will rank equally in right of payment with all of the Company's existing and future unsecured and unsubordinated indebtedness, and senior in right of payment to any of the Company's future indebtedness that is expressly subordinated to the notes. The notes will be effectively subordinated to all of the Company's existing and future secured indebtedness, including the Company's 2026 Senior Secured Notes, 2026 Convertible Notes and structurally subordinated to all indebtedness and other liabilities of the Company's subsidiaries, including trade credit.

Optional and Mandatory Prepayments. The Company may prepay the entire note or a portion thereof at any time, without incurring penalties or premiums. Such prepayments must cover the principal amount along with accrued interest up to the prepayment date, as well as any other outstanding amounts under the note. Any prepaid amount cannot be re-borrowed.

The CGIC Unsecured Note also requires a mandatory prepayment from the proceeds from certain asset sales and the greater of $3 million or 12.5% of the proceeds from certain equity sales.

Events of Default. The note contains customary events of default and contains cross-default provisions with the Company's Unsecured Indenture and Senior Debt which could, subject to certain conditions, cause the note to become immediately due and payable.

INNOVATE is in compliance with its debt covenants as of December 31, 2023.

12. Income Taxes

The income tax expense (benefit) for income taxes for the years indicated were as follows (in millions):

	Year Ended December 31,	
	2023	2022
Current tax expense (benefit)		
Federal	$ —	$ (2.7)
State	4.5	2.9
Foreign	5.3	(0.4)
Net current tax expense (benefit)	$ 9.8	$ (0.2)
Deferred tax expense (benefit)		
Federal	$ 0.3	$ (0.6)
State	0.2	0.1
Foreign	(5.8)	1.6
Net deferred tax (benefit) expense	$ (5.3)	$ 1.1
Income tax expense	$ 4.5	$ 0.9

The US and foreign components of income (loss) from continuing operations before income taxes for the years indicated were as follows (in millions):

	Year Ended December 31,	
	2023	2022
US	$ (46.9)	$ (45.1)
Foreign	12.5	4.0
Loss from continuing operations before income taxes	$ (34.4)	$ (41.1)

For the years indicated, the income tax expense differed from the amount computed by applying the federal statutory income tax rate to income (loss) before income taxes due to the following items (in millions):

	Year Ended December 31,	
	2023	2022
Tax (benefit) at federal statutory rate	$ (7.2)	$ (8.6)
State tax, net of federal benefit	1.4	1.0
Non-deductible meals and entertainment	0.6	0.2
Executive and stock compensation	0.3	0.1
Increase (decrease) in valuation allowance	8.9	(0.7)
Tax rate changes	1.2	1.7
Return to provision	0.6	3.2
Foreign withholding tax expense	4.4	—
Gain on sale of investment	0.5	—
Outside basis differences	(6.9)	4.2
Other	0.7	(0.2)
Income tax expense	$ 4.5	$ 0.9

Income tax expense of $4.5 million for the year ended December 31, 2023 primarily relates to the tax expense as calculated under ASC 740 for taxpaying entities, for which there was an increase in current state tax expense at certain taxpaying entities due to an increase in profitability. The tax expense for the year ended December 31, 2023 includes a $1.1 million net tax benefit, consisting of a current tax expense of $4.4 million related to a foreign withholding tax payment and a deferred tax benefit of $5.5 million related to the reversal of the deferred tax liability associated with the $11.3 million HMN put option agreement and the expected foreign withholding taxes on the book over tax outside basis difference in the investment, both of which were related to the sale of New Saxon's 19% investment in HMN on March 6, 2023. Additionally, the tax benefits associated with losses generated by the INNOVATE Corp. U.S. tax consolidated group and certain other businesses have been reduced by a full valuation allowance as the Company does not believe it is more-likely-than not that the losses will be utilized prior to expiration.

Income tax expense of $0.9 million for the year ended December 31, 2022 primarily related to tax expense as calculated under ASC 740 for taxpaying entities, which was partially offset by the net tax savings of $3.1 million from the CGIC consolidation in the 2021 tax return, resulting in a partial release of the valuation allowance. Additionally, the tax benefits associated with losses generated by the INNOVATE Corp. U.S. tax consolidated group and certain other businesses have been reduced by a full valuation allowance as we do not believe it is more-likely-than-not that the losses will be utilized prior to expiration.

Deferred income taxes reflect the net income tax effect of temporary differences between the basis of assets and liabilities for financial reporting purposes and for income tax purposes. Net deferred tax balances as of the years indicated were comprised of the following (in millions):

	December 31,	
	2023	2022
Net operating loss carryforwards	$ 74.7	$ 82.5
Basis difference in fixed assets	0.3	0.3
Deferred compensation	7.4	7.2
Sec. 163(j) carryforward	59.6	46.3
Lease liability	18.5	20.5
Investment in partnership	9.9	7.2
Other deferred tax assets	7.2	6.1
Total deferred tax assets	177.6	170.1
Valuation allowance	(110.7)	(101.6)
Total net deferred tax assets	$ 66.9	$ 68.5
Basis difference in fixed assets	(19.5)	(17.5)
Right-of-use assets	(17.3)	(19.1)
Basis difference in intangibles	(30.4)	(27.8)
Other deferred tax liabilities	(1.8)	(11.5)
Total deferred tax liabilities	$ (69.0)	$ (75.9)
Net deferred tax liabilities	$ (2.1)	$ (7.4)

Deferred tax assets refer to assets that are attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases. Deferred tax assets in essence represent future savings of taxes that would otherwise be paid in cash. The realization of the deferred tax assets is dependent upon the generation of sufficient future taxable income, including capital gains. If it is determined that the deferred tax assets cannot be realized, a valuation allowance must be established, with a corresponding charge to net income (loss).

In accordance with ASC 740, the Company establishes valuation allowances for deferred tax assets that, in its judgment are not more likely-than-not realizable. These judgments are based on projections of future income or loss and other positive and negative evidence by individual tax jurisdiction. Changes in industry and economic conditions and the competitive environment may impact these projections. In accordance with ASC Topic 740, during each reporting period the Company assesses the likelihood that its deferred tax assets will be realized and determines if adjustments to its valuation allowances are appropriate.

Management evaluated the need to maintain the valuation allowance against the deferred taxes of the INNOVATE Corp. U.S. consolidated tax group (“the group”) for each of the reporting periods based on the positive and negative evidence available. The objective negative evidence evaluated was the group’s historical operating results over the prior three-year period. The group is in a cumulative three-year loss as of December 31, 2023 which provides negative evidence that is difficult to overcome and would require a substantial amount of objectively verifiable positive evidence of future income to support the realizability of the group’s deferred tax assets. While positive evidence exists by way of unrealized gains in the Company’s investments, management concluded that the negative evidence now outweighs the positive evidence. Thus, it is more likely than not that the group’s US deferred tax assets will not be realized.

Valuation allowances have been maintained against deferred tax assets based on losses generated by certain businesses that do not qualify to be included in the INNOVATE Corp. U.S. consolidated income tax return. Generally, consolidation rules under the Internal Revenue Code require consolidation of like-kind entities with an 80% or greater equity ownership, and each individual state or foreign jurisdiction has their own distinct consolidation rules which vary.

Net Operating Losses

At December 31, 2023, the Company had gross U.S. net operating loss carryforwards available to reduce future taxable income of the U.S. consolidated group in the amount of $179.2 million. The Company expects that approximately $119.2 million of the gross U.S. net operating loss carryforwards would be available to offset taxable income in 2024 and later periods. This estimate may change based on changes to actual results reported on the 2023 U.S. tax return. The amount of U.S. net operating loss carryforwards reflected in the financial statements differ from the amounts reported on the U.S. tax return due to uncertain tax positions related to tax laws and regulations that are subject to varied interpretation by the IRS.

Due to U.S. enacted Public Law 115-97, known informally as the Tax Cuts and Jobs Act (the "TCJA") in 2017, U.S. net operating loss carryforwards in the amount of $121.9 million, generated after 2017 have an indefinite carryforward period. U.S. net operating loss carryforwards, in the amount of $57.3 million, generated prior to 2018 will expire, if unused, by 2037.

Additionally, the Company has $138.0 million of gross U.S. net operating loss carryforwards from its subsidiaries that do not qualify to be included in the INNOVATE Corp. U.S. consolidated income tax return, including $92.9 million from R2, $42.7 million from DTV America, and other entities of $2.4 million. Of the $138.0 million of gross U.S. net operating loss carryforwards, $101.9 million was generated after 2017 and will have an indefinite carryforward period; the remaining $36.1 million was generated prior to 2018 and will expire, if unused, by 2037.

Pursuant to the rules under Section 382, the Company concluded that it underwent an ownership change on May 29, 2014 and $46.1 million gross U.S. net operating losses recorded in the consolidated financial statements are subject to an annual limitation under IRC Sec. 382 of approximately $2.3 million. On November 4, 2015, INNOVATE issued 8.5 million shares of its stock in a primary offering. The Company believes the issuance resulted in a Section 382 ownership change and $31.7 million gross U.S. net operating losses recorded in the consolidated financial statements are subject to IRC Sec. 382.

The purchase of GrayWolf Industrial on November 30, 2018 triggered a Section 382 ownership change. $57.1 million of federal net operating losses acquired are subject to an annual limitation between $3.0 million and $4.0 million for the first five years beginning in 2019 and $1.1 million afterwards. $25.4 million of the GrayWolf U.S. net operating losses subject to Section 382 were generated in 2018, and, therefore, they do not expire.

Additionally, the Company has $11.4 million of acquired U.S. net operating losses from DTV America, which is subject to an annual limitation under Section 382 of the Internal Revenue Code.

As of December 31, 2023, the Company had foreign operating loss carryforwards of approximately $1.2 million.

Unrecognized Tax Benefits

The Company follows the provision of ASC 740 which prescribes a comprehensive model for how a company should recognize, measure, present, and disclose in its financial statements uncertain tax positions that the Company has taken or expects to take on a tax return. The Company is subject to challenge from various taxing authorities relative to certain tax planning strategies, including certain intercompany transactions as well as regulatory taxes.

The Company did not have any unrecognized tax benefits as of December 31, 2023, and 2022 related to uncertain tax positions that would impact the effective income tax rate if recognized. The Company has reduced the net operating loss carryforward by $58.7 million for uncertain tax positions based on our interpretation of tax laws and regulations that are subject to varied interpretation by the IRS.

Below is a tabular reconciliation of the total amount of unrecognized tax benefits as of the years indicated (in millions):

	Year Ended December 31,	
	2023	2022
Uncertain tax benefits - January 1	$ 17.6	$ 17.6
Gross decreases - Tax positions in prior year	—	—
Uncertain tax benefits - December 31	$ 17.6	$ 17.6

Examinations

The Company conducts business globally, and as a result, INNOVATE or one or more of its subsidiaries files income tax returns in the United States federal jurisdiction and various state and foreign jurisdictions. In the normal course of business, the Company is subject to examination by taxing authorities throughout the world. Tax years 2002-2022 remain open for examination.

The Company is currently under examination in various domestic and foreign tax jurisdictions. The open tax years contain matters that could be subject to differing interpretations of applicable tax laws and regulations as they relate to the amount, character, timing or inclusion of revenue and expenses or the applicability of income tax credits for the relevant tax period. Given the nature of tax audits, there is a risk that disputes may arise.

13. Commitments and Contingencies

Unrecorded future minimum purchase commitments as of December 31, 2023 were as follows (in millions):

2024	$ 203.6
2025	0.3
Total commitments	$ 203.9

The Company’s future minimum purchase commitments are primarily for materials and subcontractor costs to be used in its construction projects. The amounts are fixed and determinable and do not include variable components.

Litigation

The Company is subject to claims and legal proceedings that arise in the ordinary course of business. Such matters are inherently uncertain, and there can be no guarantee that the outcome of any such matter will be decided favorably to the Company or that the resolution of any such matter will not have a material adverse effect upon the Company’s Consolidated Financial Statements. The Company does not believe that any of such pending claims and legal proceedings will have a material adverse effect on its Consolidated Financial Statements. The Company records a liability in its Consolidated Financial Statements for these matters when a loss is known or considered probable and the amount can be reasonably estimated as well as any legal costs incurred related to the litigation. The Company reviews these estimates each accounting period as additional information is known and adjusts the loss provision when appropriate. If a matter is both probable to result in a liability and the amount of loss can be reasonably estimated, the Company estimates and discloses the possible loss or range of loss to the extent necessary for its Consolidated Financial Statements not to be misleading. If the loss is not probable or cannot be reasonably estimated, a liability is not recorded in the Company's Consolidated Financial Statements. Any legal or other expenses associated with the litigation are accrued for as the expenses are incurred.

Based on a review of the current facts and circumstances with counsel in each of the matters disclosed, management has provided for what is believed to be a reasonable estimate of loss exposure. While acknowledging the uncertainties of litigation, management believes that the ultimate outcome of litigation will not have a material effect on its financial position and will defend itself vigorously.

DTV Derivative Litigation

On March 15, 2021, 22 DTV stockholders and eight holders of DTV stock options filed a stockholder class action and derivative complaint in the Delaware Court of Chancery in an action styled Bocock, et al., v. HC2 Holdings, Inc. et al., C.A. No. 2021-0224 (Del. Ch.). Plaintiffs named as defendants INNOVATE Corp. (f/k/a HC2 Holdings, Inc.), HC2 Broadcasting Holdings, Inc., HC2 Broadcasting Inc., and Continental General Insurance Corporation (the "INNOVATE Entities") and certain current and former officers and directors of the INNOVATE Entities and DTV, including Philip Falcone, Michael Sena, Wayne Barr, Jr., Les Levi, Paul Voigt, Ivan Minkov, and Paul Robinson (the "Individual Defendants"). Plaintiffs principally allege that the defendants breached their fiduciary duties and/or aided and abetted breaches of fiduciary duty by participating in a "scheme" in which the INNOVATE Entities (i) acquired majority voting and operating control over DTV; (ii) exploited that control to misappropriate DTV's assets and business opportunities for the benefit of the INNOVATE Entities; and (iii) purchased DTV stock at a discount to fair value and diminished the value of DTV stock options. Plaintiffs allege that the Individual Defendants (i) "prompted" the INNOVATE Entities to purchase more than 100 low-power television ("LPTV") broadcast stations originally identified for potential acquisition by DTV, (ii) allowed the INNOVATE Entities to misappropriate DTV technology, known as "DTV Cast," (iii) caused DTV to transfer unspecified LPTV broadcasting station licenses to INNOVATE affiliates "without paying any value," and (iv) transferred to the INNOVATE Entities unspecified DTV broadcasting stations that had been "repacked" by the FCC. Defendants moved to dismiss the Complaint on May 19, 2021. On June 23, 2021, plaintiffs amended their complaint. In the amended complaint, plaintiffs assert the same claims they asserted in their initial complaint, added a claim for waste associated with DTV's purported transfer of licenses and construction permits for less than fair value, and dropped Paul Robinson as a defendant. Defendants moved to dismiss the amended complaint in its entirety on August 25, 2021, and the parties completed briefing on the motions to dismiss on November 10, 2021. The Court heard argument on the motions to dismiss on March 29, 2022. On June 28, 2022, the Court requested that the parties submit supplemental briefing on the motions to dismiss by July 20, 2022. The parties completed the supplemental briefing on July 20, 2022.

On October 28, 2022, the Court issued a Memorandum Opinion on Defendants' motion to dismiss the Complaint. First, the Court dismissed all claims against Continental General Insurance Corporation for lack of personal jurisdiction. Second, the Court dismissed all claims the stockholder plaintiffs purported to assert directly. Third, the Court dismissed as time-barred all claims challenging conduct that occurred before March 15, 2018, including claims challenging (i) the November 2017 acquisition of Azteca America by INNOVATE; (ii) INNOVATE's purported usurpation of the so-called "DTV Cast" technology; and (iii) the WFWC-CD Station acquisition. Fourth, the Court dismissed claims associated with the INNOVATE Entities' purported purchases of unidentified broadcasting stations. Fifth, the Court dismissed all claims challenging the Expense Sharing Agreement, and the Right to Use Agreement between INNOVATE and DTV, and certain Stock-Based Compensation Agreements. Sixth, the Court dismissed the aiding and abetting claim against the INNOVATE Entities. Seventh, the Court dismissed the civil conspiracy claim as to all defendants. Lastly, the Court dismissed the option-holders' claim for tortious interference with prospective business opportunities. Thus, after the Court issued its October 28, 2022 Memorandum Opinion, the only claims to survive Defendants' motion to dismiss are (i) a derivative claim against the INNOVATE Entities (other than Continental General), Levi, and Falcone for breach of fiduciary duty in connection with the $0.1 million Frank Digital acquisition; (ii) a derivative claim for breach of fiduciary duty against the INNOVATE Entities (other than Continental General), in their capacities as DTV's controlling stockholders, relating to the sale of six licenses (for less than $0.5 million) in connection with the Gray Media sale (the "Gray Media Claim"); (iii) a derivative claim for breach of fiduciary duty against the INNOVATE Entities (other than Continental General) and Levi in connection with the transfer of licenses ultimately sold to TV-49 for $0.1 million; and (iv) a derivative claim for waste against Levi and Falcone in connection with the sale of two stations to Lowcountry, which Lowcountry later sold for $0.2 million and $0.4 million, respectively

On February 8, 2024, the Court granted Plaintiffs' motion for leave to file a second amended complaint. The proposed second amended complaint (i) names DTV as a nominal defendant, (ii) removes the Gray Media Claim, and (iii) removes all Plaintiffs other than James Bocock and Stan V. Smith on Behalf of the Stan V. Smith Trust dated April 30, 1993. The Court ordered Plaintiffs to file their second amended complaint on or before February 13, 2024. On February 14, 2024, Plaintiffs filed their second amended complaint.

The Company believes these remaining claims are without merit, and the Company intends to vigorously defend this litigation.

Marin Hospital Replacement Litigation

On October 20, 2022, McCarthy Building Companies, Inc. ("McCarthy") filed suit against Schuff Steel Company ("Schuff"), a subsidiary of DBMG, and Quality Assurance Engineering, Inc. dba Consolidated Engineering Laboratories ("CEL") in the Superior Court of the State of California for the County of Marin, styled McCarthy Building Companies, Inc. v. Schuff Steel Company; Quality Engineering, Inc. dba Consolidated Engineering Laboratories, et al., Case No. CIV2203963 (the "Action"). In the Action, McCarthy alleges damages and delays caused by alleged failures in fabrication, erection, welding, and quality control by Schuff and improper quality assurance responsibilities by CEL on the Marin General Hospital Replacement Building (the "Project"). McCarthy asserts claims against Schuff for breach of contract, express indemnity, breach of express warranties, negligence, equitable implied indemnity, breach of implied warranties, and declaratory relief. On February 13, 2023, Schuff filed its response denying liability to McCarthy and asserting a Cross-Complaint against McCarthy, and other companies involved in the design, construction, and quality assurance, who potentially are liable for damages and delays alleged by McCarthy on the Project. In the Cross-Complaint, Schuff asserts claims for breach of contract, violation of statute, equitable indemnity apportionment, and contribution and express indemnity (the "Cross-Complaint"). Schuff intends to vigorously defend this Action and aggressively pursue the Cross-Complaint and cannot reasonably estimate any range of potential loss at this time.

Meruelo Television Litigation

On August 8, 2023, Meruelo Television, LLC ("Plaintiff") commenced a lawsuit in the Superior Court of the State of California, Los Angeles County, with the filing of a complaint naming as defendants HC2 Network, Inc. ("HC2"), INNOVATE Corp. ("INNOVATE" and, together with HC2, "Defendants"), and Does 1 through 20, in the matter titled Meruelo Television, LLC v. HC2 Network, Inc., et al. (Cal. Supr. Ct.) Case No. 23ST-cv-18552.

On September 29, 2023, Defendants filed a Notice of Removal, removing the case from California state court to federal court in the U.S. District Court for the Central District of California, where it has been assigned Case No. 2:23-cv-08184-AB-BFM.

On October 27, 2023, Plaintiff filed its First Amended Complaint (the "FAC"), asserting six (6) causes of action against Defendants: (1) Breach of Contract, (2) Breach of the Implied Covenant of Good Faith and Fair Dealing, (3) Negligent Misrepresentation, (4) Intentional Misrepresentation, (5) Tortious Interference with Contract, and (6) Tortious Interference with Prospective Economic Relations. On November 11, 2023, Defendants filed a motion to dismiss the FAC (Defendants' "Motion").

On January 30, 2024, the Court granted Defendants' Motion, dismissing all claims asserted against Innovate and, with the exception of the First Cause of Action for Breach of Contract, dismissing all claims against HC2. The Court further granted Plaintiff leave to file, within twenty-one (21) days, a second amended complaint to repleading the claims against Innovate and the Fourth and Fifth Causes of Action against HC2.

On February 20, 2024, Plaintiff filed its Second Amended Complaint (the "SAC"). The SAC asserts only one cause of action, Count I for breach of the Agreement, as against both HC2 and INNOVATE. Whereas INNOVATE is a non-party to the Agreement at issue, Plaintiff alleges that Innovate can be held liable under Count I as the alleged alter ego of HC2. Defendants are assessing their potential response to the SAC.

INNOVATE is unable to assess the probability of loss or range of potential loss from this litigation at this time and intends to vigorously defend the litigation.

Other Commitments and Contingencies

Letters of Credit and Performance Bonds

As of December 31, 2023, DBMG had outstanding letters of credit of $0.1 million under credit and security agreements and performance bonds of $360.8 million. As of December 31, 2022, DBMG had outstanding letters of credit of $2.6 million under credit and security agreements and performance bonds of $956.6 million. DBMG's contract arrangements with customers sometimes require DBMG to provide performance bonds to partially secure its obligations under its contracts. Bonding requirements typically arise in connection with private contracts and sometimes with respect to certain public work projects. DBMG's performance bonds are obtained through surety companies and typically cover the entire project price. The ratings of the bonding companies utilized by DBMG are highly rated, ranging from A-, A, A+ and AA.

Concentrations of Credit Risk and Significant Suppliers

Financial instruments that potentially subject the Company to concentrations of credit risk consist primarily of cash, cash equivalents, and accounts receivable. The Company maintains all cash and cash equivalents at accredited financial institutions, in amounts that exceed federally insured limits. The Company has not experienced any losses in such accounts. The Company held $6.3 million and $4.1 million of cash and restricted cash in foreign accounts as of December 31, 2023 and 2022, respectively. The Company attempts to minimize the risks related to cash and cash equivalents by investing in a range of financial instruments as defined by the Company. Concentrations of credit risk with respect to accounts receivable are limited by the large number of customers comprising the Company's customer base and their geographic and business dispersion. The Company performs ongoing credit evaluations of the customers' financial condition and generally does not require collateral to support customer receivables.

For the year ended December 31, 2023, two customers exceeded 10% of the Company's revenue and accounted for approximately 29.2% and 11.4%, respectively, and two customers accounted for more than 10% of accounts receivable, net, for approximately 30.0% and 11.5%, respectively. For the year ended December 31, 2022, one customer exceeded 10% of the Company's revenue and accounted for approximately 23.8% and one customer accounted for more than 10% of accounts receivable, net, for approximately 11.5%.

For the year ended December 31, 2023, no suppliers accounted for more than 10% of the Company's accounts payable. For the fiscal year ended December 31, 2022, one supplier accounted for more than 10% of the Company's accounts payable for approximately 17.5%.

14. Employee Retirement Plans

401(k) Plans

The Company and various subsidiaries maintain 401(k) retirement savings plans which cover eligible employees, including for certain, union steelworkers, and permits participants to contribute to the plans, subject to Internal Revenue Code restrictions and which feature matching contributions of various percentages of the first 3% to 5% of employee annual salary contributions, depending on the subsidiary. The Company made aggregate matching contributions of $3.3 million and $2.9 million for the years ended December 31, 2023 and 2022, respectively.

Multi-Employer Plans

Certain of the Company's Infrastructure segment workforce are subject to collective bargaining agreements. The Company contributes to union-sponsored, multi-employer pension plans. Contributions are made in accordance with negotiated labor contracts. The passage of the Multi-Employer Pension Plan Amendments Act of 1980 (the Act) may, under certain circumstances, cause the Company to become subject to liabilities in excess of contributions made under collective bargaining agreements. Generally, liabilities are contingent upon termination, withdrawal, or partial withdrawal from the plans. Under the Act, liabilities would be based upon the Company's proportionate share of each plan's unfunded vested benefits.

The Company made contributions to various multi-employer pension plans totaling $17.3 million and $35.0 million during the years ended December 31, 2023 and 2022, respectively. As of December 31, 2023, approximately 14.1% of DBMG’s employees are covered under various collective bargaining agreements. As of December 31, 2023, most of the Infrastructure segment's collective bargaining agreements are subject to automatic annual or other renewal unless either party elects to terminate the agreement on the scheduled expiration date.

15. Share-based Compensation

On April 11, 2014, INNOVATE’s Board of Directors adopted the INNOVATE Corp. Omnibus Equity Award Plan (the "2014 Plan"), which was originally approved at the annual meeting of stockholders held on June 12, 2014. On April 21, 2017, the Board of Directors, subject to stockholder approval, adopted the Amended and Restated 2014 Omnibus Equity Award Plan (the "Restated 2014 Plan"). The Restated 2014 Plan was approved by INNOVATE's stockholders at the annual meeting of stockholders held on June 14, 2017. Subject to adjustment as provided in the Restated 2014 Plan, the Restated 2014 Plan authorized the issuance of 3,500,000 shares of common stock of INNOVATE, plus any shares that again become available for awards under the 2014 Plan, plus any shares that again become available for awards under the Restated 2014 Plan.

On April 20, 2018, the Board of Directors, subject to stockholder approval, adopted the Second Amended and Restated 2014 Omnibus Equity Award Plan (the "Second A&R 2014 Plan"). The Second A&R 2014 Plan was approved by INNOVATE's stockholders at the annual meeting of stockholders held on June 13, 2018. Subject to adjustment as provided in the Second A&R 2014 Plan, the Second A&R 2014 Plan authorized the issuance of up to 3,500,000 shares of common stock of INNOVATE, plus any shares that again become available for awards under the 2014 Plan or the Restated 2014 Plan. As of December 31, 2023, 0.8 million shares for awards remain available for issuance under the Second A&R 2014 Plan.

The Second A&R 2014 Plan provides that no further awards will be granted pursuant to the 2014 Plan or the Restated 2014 Plan. However, awards previously granted under either the 2014 Plan or the Amended 2014 Plan will continue to be subject to and governed by the terms of the 2014 Plan and Amended 2014 Plan, respectively. The Compensation Committee of INNOVATE's Board of Directors administers the 2014 Plan, the Amended 2014 Plan and the Second A&R 2014 Plan and has broad authority to administer, construe and interpret the plans. The Second A&R 2014 Plan provides for the grant of awards of non-qualified stock options, incentive (qualified) stock options, stock appreciation rights, restricted stock awards, restricted stock units, other stock based awards, performance compensation awards (including cash bonus awards) or any combination of the foregoing. The Company typically issues new shares of common stock upon the exercise of stock options, as opposed to using treasury shares.

The Company follows guidance which addresses the accounting for share-based payment transactions whereby an entity receives employee services in exchange for either equity instruments of the enterprise or liabilities that are based on the fair value of the enterprise’s equity instruments or that may be settled by the issuance of such equity instruments. The guidance generally requires that such transactions be accounted for using a fair-value based method and share-based compensation expense be recorded, based on the grant date fair value, estimated in accordance with the guidance, for all new and unvested stock awards that are ultimately expected to vest as the requisite service is rendered.

Total share-based compensation expense recognized by the Company and its subsidiaries under all equity compensation arrangements was $2.2 million and $2.4 million for the years ended December 31, 2023 and 2022, respectively.

All grants are time based and vest either immediately or over a period established at grant, typically with a requisite service period of two to three years for the employee to vest in the stock-based award, subject to discretion by Compensation Committee of the Board of Directors. There are no other substantive conditions for vesting. The Company recognizes compensation expense for equity awards, reduced by actual forfeitures as they are incurred, using the straight-line basis.

Restricted Stock

A summary of INNOVATE's restricted stock activity is as follows:

	Shares	Weighted Average Grant Date Fair Value
Unvested - December 31, 2021	555,879	$ 3.79
Granted	1,031,611	$ 2.41
Vested	(400,395)	$ 3.77
Forfeited	(45,289)	$ 3.68
Unvested - December 31, 2022	1,141,806	$ 2.56
Granted	506,955	$ 2.57
Vested	(1,023,032)	$ 2.32
Unvested - December 31, 2023	625,729	$ 2.95

The aggregate vesting date fair value of the restricted stock awards which vested during the years ended December 31, 2023 and 2022 was $1.9 million and $0.9 million, respectively. As of December 31, 2023, the total unrecognized stock-based compensation expense related to unvested restricted stock awards was $1.0 million and is expected to be recognized over the remaining weighted average period of 1.4 years.

Stock Options

A summary of INNOVATE's stock option activity is as follows:

	Shares	Weighted Average Exercise Price
Outstanding - December 31, 2021	4,715,859	$ 5.13
Granted	280,791	$ 3.25
Expired	(1,500)	$ 4.06
Outstanding and exercisable- December 31, 2022	4,995,150	$ 5.02
Expired	(352,339)	$ 3.12
Outstanding and exercisable - December 31, 2023	4,642,811	$ 5.17

The weighted-average grant-date fair value of the stock options granted during the year ended December 31, 2022 was $1.47. As of December 31, 2023, the intrinsic value and weighted-average remaining life of the Company's outstanding and exercisable stock options were zero and approximately 0.5 years, respectively. The maximum contractual term of the Company's exercisable stock options is approximately ten years. As of December 31, 2023, there were no unvested stock options and no unrecognized stock-based compensation expense related to unvested stock options.

16. Temporary Equity and Equity

Preferred Shares

The Company's preferred shares authorized, issued and outstanding consisted of the following:

	December 31,	
	2023	2022
Preferred shares authorized, $0.001 par value	20,000,000	20,000,000
Series A-3 shares issued and outstanding	6,125	6,125
Series A-4 shares issued and outstanding	10,000	10,000

Series A-3 and Series A-4 Shares

Issuance and Conversion. On July 1, 2021 (the "Exchange Date") as a part of the sale of Continental Insurance Group ("CIG"), INNOVATE entered into an exchange agreement (the "Exchange Agreement") with Continental General Insurance Company ("CGIC"), also a former subsidiary, which held the remaining shares of the Company's previous Series A and Series A-2 Preferred Stock and was eliminated in consolidation prior to the sale of the Company's former Insurance segment on July 1, 2021. Per the Exchange Agreement, INNOVATE exchanged 6,125 shares of the Series A and 10,000 shares of the Series A-2 shares that CGIC held for an equivalent number of Series A-3 Convertible Participating Preferred Stock ("Series A-3") and Series A-4 Convertible Participating Preferred Stock ("Series A-4"), respectively. The terms remained substantially the same, except that the Series A-3 and Series A-4 mature on July 1, 2026.

Upon issuance of the Series A-3 and Series A-4 Preferred Stock on July 1, 2021, the Series A-3 and Series A-4 have been classified as temporary equity in the Company's Consolidated Balance Sheet with a combined redemption value of $16.1 million and with a current fair value of $16.4 million as of December 31, 2023.

Dividends. The Series A-3 and Series A-4 Preferred Stock accrue a cumulative quarterly cash dividend at an annualized rate of 7.50%. The accrued values of the Series A-3 and Series A-4 Preferred Stock accrete quarterly at an annualized rate of 4.00% that is reduced to 2.00% or 0.0% if the Company achieves specified rates of growth measured by increases in its net asset value; provided, that the accreting dividend rate will be 7.25% in the event that (A) the daily volume weighted average price ("VWAP") of the Company's common stock is less than a certain threshold amount, (B) the Company's common stock is not registered under Section 12(b) of the Securities Exchange Act of 1934, as amended, (C) the Company's common stock is not listed on certain national securities exchanges or the Company is delinquent in the payment of any cash dividends. The Series A-3 and Series A-4 Preferred Stock is also entitled to participate in cash and in-kind distributions to holders of shares of Company's common stock on an as-converted basis.

Subsequent Measurement. The Company elected to account for the Series A-3 and Series A-4 Preferred Stock by immediately recognizing changes in the redemption value as they occur. The carrying values of the Series A-3 and Series A-4 Preferred Stock are adjusted to equal what the redemption amount would be as if the redemption were to occur at the end of the reporting period as if it were also the redemption date for the Series A-3 and Series A-4 Preferred Stock. Any cash dividends paid directly reduce the carrying value of the Series A-3 and Series A-4 Preferred Stock until the carrying value equals the redemption value. The Company has a history of paying dividends on its preferred stock and expects to continue to pay such dividends each quarter.

Optional Conversion. Each share of Series A-3 and Series A-4 may be converted by the holder into shares of the Company's common stock at any time based on the then-applicable Conversion Price. Each share of Series A-3 is initially convertible at a conversion price of $4.25 (as it may be adjusted from time to time, the "Series A-3 Conversion Price"), and each share of Series A-4 is initially convertible at a conversion price of $8.25 (as it may be adjusted from time to time, the "Series A-4 Conversion Price") (“collectively the “Conversion Prices”). The Conversion Prices are subject to adjustment for dividends, certain distributions, stock splits, combinations, reclassifications, reorganizations, mergers, recapitalizations and similar events, as well as in connection with issuances of equity or equity-linked or other comparable securities by the Company at a price per share (or with a conversion or exercise price or effective issue price) that is below the Conversion Prices’ (which adjustment shall be made on a weighted average basis). Actual conversion prices at the time of the exchange in 2021 were $3.52 for the Series A and $5.33 for the Series A-2.

Redemption by the Holders / Automatic Conversion. On July 1, 2026, holders of the Series A-3 and Series A-4 shall be entitled to cause the Company to redeem the Series A-3 and Series A-4 at the accrued value per share plus accrued but unpaid dividends (to the extent not included in the accrued value of Series A-3 and Series A-4). Each share of Series A-3 and Series A-4 that is not so redeemed will be automatically converted into shares of the Company's common stock at the Conversion Price then in effect.
Upon a change of control (as defined in each Certificate of Designation) holders of the Series A-3 and Series A-4 shall be entitled to cause the Company to redeem their shares of Series A-3 and Series A-4 at a price per share of Series A-3 and Series A-4 equal to the greater of (i) the accrued value of the Series A-3 and Series A-4, plus any accrued and unpaid dividends (to the extent not included in the accrued value of Series A-3 and Series A-4 Preferred Stock), and (ii) the value that would be received if the share of Series A-3 and Series A-4 were converted into shares of the Company's common stock immediately prior to the change of control.

Redemption by the Company / "Company Call Option". At any time, the Company may redeem the Series A-3/Series A-4, in whole but not in part, at a price per share generally equal to 150% of the accrued value per share, plus accrued but unpaid dividends (to the extent not included in the accrued value of the Series A-3/Series A-4), subject to the holder's right to convert prior to such redemption.

Forced Conversion. The Company may force conversion of the Series A-3 and Series A-4 into shares of the Company's common stock if the common stock's thirty-day VWAP exceeds 150% of the then-applicable Conversion Price and the Common Stock’s daily VWAP exceeds 150% of the then-applicable Conversion Price for at least 20 trading days out of the thirty trading day period used to calculate the 30-day VWAP. In the event of a forced conversion, the holders of Series A-3 and Series A-4 will have the ability to elect cash settlement in lieu of conversion if certain market liquidity thresholds for the Company's common stock are not achieved.

Liquidation Preference. In the event of any liquidation, dissolution or winding up of the Company (any such event, a “Liquidation Event”), the holders of Series A-3 and Series A-4 will be entitled to receive per share the greater of (i) the accrued value of the Series A-3 and Series A-4, plus any accrued and unpaid dividends (to the extent not included in the accrued value of Series A-3 and Series A-4), and (ii) the value that would be received if the share of Series A-4 and Series A-4 were converted into shares of the Company's common stock immediately prior to such occurrence. The Series A-3 and Series A-4 will rank junior to any existing or future indebtedness but senior to the Company's common stock and any future equity securities other than any future senior or pari passu preferred stock issued in compliance with each Certificate of Designation. The Series A-3 Preferred Stock and the Series A-4 Preferred Stock rank at parity.

Voting Rights. Except as required by applicable law, the holders of the shares of the Series A-3 and Series A-4 will be entitled to vote on an as-converted basis with the holders of the Company’s common stock on all matters submitted to a vote of the holders of the Company's common stock with the holders of Series A-3 Preferred Stock and Series A-4 Preferred Stock on certain matters, and separately as a class on certain limited matters.

Consent Rights. For so long as any of the Series A-3 and Series A-4 is outstanding, consent of the holders of shares representing at least 75% of certain of the Series A-3 and Series A-4 then outstanding is required for certain material actions.

Participation Rights. Pursuant to the securities purchase agreements entered into with the initial purchasers of the Series A-3 Preferred Stock and the Series A-4 Preferred Stock, subject to meeting certain ownership thresholds, certain purchasers of the Series A-3 Preferred Stock and the Series A-4 Preferred Stock are entitled to participate, on a pro-rata basis in accordance with their ownership percentage, determined on an as-converted basis, in issuances of equity and equity linked securities by the Company. In addition, subject to meeting certain ownership thresholds, certain initial purchasers of the Series A-3 Preferred Stock and the Series A-4 Preferred Stock will be entitled to participate in issuances of preferred securities and in debt transactions of the Company.

As of December 31, 2023, Series A-3 Preferred Stock and Series A-4 Preferred Stock were convertible into 1,740,700 and 1,875,533 shares, respectively, of INNOVATE's common stock.

Preferred Share Dividends

During the years ended December 31, 2023 and 2022, INNOVATE's Board of Directors (the "Board") declared cash dividends with respect to INNOVATE's issued and outstanding Preferred Stock, as presented in the following table (in millions):

2023				
Declaration Date and Holders of Record Date	March 31, 2023	June 30, 2023	September 30, 2023	December 31, 2023
Payment Date	April 17, 2023	July 14, 2023	October 13, 2023	January 15, 2024
Total Dividend	$ 0.3	$ 0.3	$ 0.3	$ 0.3

2022				
Declaration Date and Holders of Record Date	March 31, 2022	June 30, 2022	September 30, 2022	December 31, 2022
Payment Date	April 15, 2022	July 15, 2022	October 15, 2022	January 15, 2023
Total Dividend	$ 0.3	$ 0.3	$ 0.3	$ 0.3

DBMGi Series A Preferred Stock

Issuance. On November 30, 2018, CGIC purchased 40,000 shares of DBMGi's Series A Fixed-to-Floating Rate Perpetual Preferred Stock (the "DBMGi Preferred Stock"), which was then eliminated in consolidation. On July 1, 2021, as a part of the sale of CIG which resulted in the deconsolidation of the entity, the Company was deemed to have issued $40.9 million of DBMGi Series A Preferred Stock to the then deconsolidated CGIC. Upon the deemed issuance of the DBMGi Series A Preferred Stock on July 1, 2021, the DBMGi Series A Preferred Stock was classified as temporary equity in the Company's Consolidated Balance Sheet. There are 500,000 shares with a par value of $0.001 each authorized for issuance. Subsequent to the issuance of the DBMGi Preferred Stock, 1,820.25 shares were issued as payment in kind for dividends, resulting in a total of 41,820.25 shares of DBMGi's Series A Preferred Stock outstanding.

Redemption. The DBMGi Preferred Stock is redeemable at any time, in whole or in part, at the option of the Company, or at any time or by the holder prior to July 2026. On March 15, 2023, DBMGi received a redemption notice from CGIC requesting that DBMGi redeem 41,820.25 shares of DBMGi Preferred Stock, representing all of the issued and outstanding shares of DBMGi Preferred Stock, within 60 days of the notice, or by May 15, 2023. On May 9, 2023, the Company entered into a Stock Purchase Agreement and Subordinated Unsecured Promissory Note with CGIC whereby INNOVATE purchased the 41,820.25 shares of DBMGi Preferred Stock for full satisfaction of the redemption notice. In full consideration of the DBMGi Preferred Stock as well as the accrued dividend of $0.4 million, the Company paid CGIC $7.1 million on May 9, 2023, and issued a subordinated unsecured promissory note to CGIC in the principal amount of $35.1 million. The promissory note is due February 28, 2026, and bears interest at 9% per annum through May 8, 2024, 16% per annum from May 9, 2024 to May 8, 2025, and 32% per annum thereafter. Refer to Note 11. Debt Obligations for additional information on the promissory note.

The DBMGi Series A Preferred Stock was measured each reporting period at its maximum redemption value, which was equal to the stated value plus all accrued, accumulated and unpaid dividends as of the end of each reporting period, as they were currently redeemable. The carrying amount as of May 9, 2023 was $41.8 million as well as the accrued dividend of $0.4 million and, subsequently, there was no gain or loss on the purchase of the DBMGi Preferred Stock from CGIC.

Dividends. The DBMGi Series A Preferred Stock accrued a cumulative quarterly cash or payment in kind dividend at a rate of (a) for the first five years following the date of issuance, (i) 9.00% per annum if dividends are paid in kind or (ii) 8.25% per annum if dividends are paid in cash and (b) starting on the fifth anniversary of the date of issuance, a rate per annum equal to (i) LIBOR (as defined in the Certificate of Designation) plus a spread of 5.85% (together, the "LIBOR Rate") per annum, plus 0.75% if dividends are paid in kind or (ii) the LIBOR Rate per annum in the case of dividends paid in cash. Subsequent to the transition away from LIBOR beginning in 2023, the Certificate of Designation allows for a LIBOR Successor Rate, which allows the Company to reasonably determine an alternate benchmark rate (including any mathematical or other adjustments to the benchmarks (if any) incorporated therein) giving due consideration to any evolving or then existing convention for similar U.S. dollar denominated syndicated credit facilities for such alternative benchmarks. Subsequent to May 9, 2023, the date that INNOVATE purchased the DBMGi Preferred Stock, the dividends are eliminated on consolidation. The dividends and equivalent amounts paid (excluding amounts eliminated on consolidation) are presented in the following tables (in millions):

2023

Declaration Date and Holders of Record Date	March 31, 2023	May 9, 2023 *
Payment Date	April 17, 2023	May 9, 2023 *
Total Dividend	$ 0.9	$ 0.4

*The dividend paid on April 17, 2023 was a cash dividend. In connection with the Stock Purchase Agreement entered into with CGIC on May 9, 2023, an equivalent amount of the dividend that had accrued through May 8, 2023 was paid to CGIC on May 9, 2023 as part of the purchase price. $0.1 million was paid in cash and $0.3 million was included in the principal amount of the new unsecured note that was issued on May 9, 2023. The dividends that accrued for the remaining portion of those periods were eliminated on consolidation subsequent to the purchase.

2022

Declaration Date and Holders of Record Date	March 31, 2022	June 30, 2022	September 30, 2022	December 31, 2022
Payment Date	April 15, 2022	July 15, 2022	October 15, 2022	January 15, 2023
Total Dividend**	$ 0.9	$ 0.9	$ 0.9	$ 0.9

**The dividends paid on April 15, 2022, October 15, 2022 and January 15, 2023 were cash dividends. The DBMGi Board of Directors elected to pay the second quarter 2022 dividend payable July 15, 2022 in shares.

R2 Technologies Non-Controlling Interests

The Company has redeemable and non-redeemable non-controlling interests related to R2 Technologies in the form of convertible preferred stock that is redeemable upon the occurrence of a change in control, as defined in the respective agreements. If an event is not solely within the control of the Company, it is classified outside of permanent equity in the mezzanine section of the Company's Consolidated Balance Sheets. The Company adjusts the carrying value of the non-controlling interests based on an allocation of subsidiary earnings (losses) based on ownership interests. As of December 31, 2023, the Company has reclassified $9.0 million of R2 redeemable non-controlling interest to non-controlling interest in accordance with the considerations of ASC 480. As of December 31, 2023, and 2022, it was not deemed probable that the non-controlling interests will become redeemable as no change in control has occurred or is expected to occur; therefore, no additional adjustment or remeasurement was required under ASC 480-10. As a result of allocation of losses in accordance with ASC 810, the redeemable non-controlling interest related to R2 was negative $1.0 million and negative $3.8 million as of December 31, 2023, and 2022, respectively.

Liquidation Preference

R2 Technologies has issued multiple A, B, and C-series participating convertible preferred stock (the "R2 Preferred Shares"), all of which contain a liquidation preference. In the event of a liquidation event, each Preferred Share has a liquidation preference to be paid out of the assets legally available for distribution, which entitles the holder of each series A and series C R2 Preferred Share to receive, before any payments to holders of junior securities, the sum of the following: (i) the accrued value in cash; (ii) all accrued and unpaid dividends, including basic dividends and accreting dividends, if any, and (iii) an amount, in cash or otherwise, equivalent to what the holder would receive if they had converted the R2 Preferred Shares into R2 common stock or reference property just before the liquidation event. Series B R2 Preferred Shareholders would be entitled to receive, before any payments to holders of junior securities, the greater of (i) the sum of (A) the accrued value in cash, plus (B) all accrued and unpaid dividends, including basic dividends and accreting dividends, if any, or (ii) an amount, in cash or otherwise, equivalent to what the holder would receive if they had converted the R2 Preferred Shares into R2 common stock or reference property just before the liquidation event.

If the assets of R2 legally available for distribution are insufficient to pay these obligations in full, R2 Preferred Shareholders and holders of any parity securities share the remaining assets in proportion to the full respective amounts to which they are entitled. After receiving the full liquidation preference, R2 Preferred Shareholders have no further claim to R2's assets, except for any new securities or instruments received as part of the liquidation preference. The value of non-cash assets distributed equals their fair market value on the distribution date. No holder of junior securities receives any payment unless the entire liquidation preference of R2 Preferred Shares is paid. If there is insufficient cash to pay the entire liquidation preference and any liquidation preference in respect of any parity securities in full in cash upon a liquidation event, R2 Preferred Shareholders and parity securities holders will share available cash proportionally.

R2 Technologies' total liquidation preference upon a hypothetical liquidation event, including the liquidation preference for Pansend Life Sciences, LLC was $112.3 million and $104.0 million as of December 31, 2023 and 2022, respectively, of which $48.0 million and $44.5 million as of December 31, 2023 and 2022, respectively, was attributable to redeemable and non-redeemable non-controlling interests, inclusive of initial preferred stock and unpaid accreted dividends. However, as of both December 31, 2023, and 2022, R2 Technologies had negative net assets after consideration of intercompany and third party debt, and, therefore, there would be no legally available funds to satisfy such liquidation preferences upon a hypothetical liquidation event.

Stockholders' Rights Agreement - Tax Benefits Preservation Plan

On August 30, 2021, the Company entered into a Tax Benefits Preservation Plan (the "2021 Preservation Plan") with Computershare Trust Company, N.A., as Rights Agent. The 2021 Preservation Plan was intended to protect the Company's ability to use its tax net operating losses and certain other tax assets ("Tax Benefits") by deterring an "ownership change" as defined under Section 382 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder (the "Code"). If any person or group acquires 4.9% or more of the outstanding shares of the Company's common stock (subject to certain exceptions), there would be a triggering event under the 2021 Preservation Plan which could result in significant dilution in the ownership interest of such person or group. As such, the 2021 Preservation Plan has anti-takeover effects. In connection with the adoption of the 2021 Preservation Plan, the Company disclosed that given the change-over in the Company's stock over the past several years, the Company was approaching the risk of losing its Tax Benefits. The 2021 Preservation Plan terminated on March 31, 2023.

On April 1, 2023, the Company entered into a new Tax Benefits Preservation Plan (the "2023 Preservation Plan") with Computershare Trust Company, N.A., as rights agent (the "Rights Agent"), and the Board of Directors of the Company declared a dividend distribution of one right (a "Right") for each outstanding share of common stock, par value $0.001 per share, of the Company (the "Common Stock") to stockholders of record at the close of business on April 10, 2023 (the "Record Date"). Each Right is governed by the terms of the Plan and entitles the registered holder to purchase from the Company a unit consisting of one one-thousandth of a share (a "Unit") of Series B Preferred Stock, par value $0.001 per share (the "Series B Preferred Stock"), at a purchase price of $15.00 per Unit, subject to adjustment (the "Purchase Price").

Rights Certificates and Exercise Period

Initially, the Rights will be attached to all Common Stock certificates representing shares then outstanding, and no separate rights certificates ("Rights Certificates") will be distributed. Subject to certain exceptions specified in the 2023 Preservation Plan, the Rights will separate from the Common Stock then outstanding and a distribution date (the "Distribution Date") will occur upon the earlier of (i) ten business days following a public announcement that a person or group of affiliated or associated persons (an "Acquiring Person") has become the beneficial owner of 4.9% or more of the shares of the Common Stock (the "Stock Acquisition Date") and (ii) ten business days (or such later date as the Board shall determine) following the commencement of a tender offer or exchange offer that would result in a person or group becoming an Acquiring Person.

Until the Distribution Date, (i) the Rights will be evidenced by the Common Stock certificates (or, in the case of book entry shares, by the notations in the book entry accounts) and will be transferred with and only with such Common Stock, (ii) new Common Stock certificates issued after the Record Date will contain a notation incorporating the 2023 Preservation Plan by reference and (iii) the surrender for transfer of any certificates for Common Stock outstanding will also constitute the transfer of the Rights associated with the Common Stock represented by such certificates. Pursuant to the 2023 Preservation Plan, the Company reserves the right (prior to the occurrence of a Triggering Event (as defined below) and upon any exercise of Rights) to make the necessary and appropriate rounding adjustments so that only whole shares of Series B Preferred Stock will be issued.

The definition of "Acquiring Person" contained in the 2023 Preservation Plan contains several exemptions, including for (i) the Company or any of the Company's subsidiaries; (ii) any employee benefit plan of the Company, or of any subsidiary of the Company, or any person or entity organized, appointed or established by the Company for or pursuant to the terms of any such plan; (iii) any person who becomes the beneficial owner of 4.9% or more of the shares of the Common Stock then outstanding as a result of (x) a reduction in the number of shares of Common Stock by the Company due to a or (y) a stock dividend, stock split, reverse stock split or similar transaction, unless and until such person increases his ownership by more than 0.5% over such person's lowest percentage stock ownership on or after the consummation of the relevant transaction; (iv) any person who, together with all affiliates and associates of such person, was the beneficial owner of 4.9% or more of the shares of the Common Stock then outstanding on the date of the 2023 Preservation Plan, unless and until such person and its affiliates and associates increase their aggregate ownership by more than 0.5% over their lowest percentage stock ownership on or after the date of the 2023 Preservation Plan or decrease their aggregate percentage stock ownership below 4.9%; (v) any person who, within ten business days of being requested by the Company to do so, certifies to the Company that such person became an Acquiring Person inadvertently or without knowledge of the terms of the Rights and who, together with all affiliates and associates, thereafter within ten business days following such certification disposes of such number of shares of Common Stock so that it, together with all affiliates and associates, ceases to be an Acquiring Person; (vi) any person that the Board, in its sole discretion, has affirmatively determined shall not be deemed an Acquiring Person.

The Rights are not exercisable until the Distribution Date and will expire at the earliest of (i) 11:59 p.m. (New York City time) on June 30, 2024 (as extended in June 2023 from October 31, 2023 to June 30, 2024) or such later date and time as may be determined by the Board and approved by the stockholders of the Company by a vote of the majority of the votes cast by the holders of shares entitled to vote thereon at a meeting of the stockholders of the Company prior to 11:59 p.m. (New York City time) on June 30, 2024 (which later date and time shall be in no event later than 11:59 p.m. (New York City time) on October 1, 2026), (ii) the time at which the Rights are redeemed or exchanged as provided in the 2023 Preservation Plan, (iii) the time at which the Board determines that the 2023 Preservation Plan is no longer necessary or desirable for the preservation of Tax Benefits, and (iv) the close of business on the first day of a taxable year of the Company to which the Board determines that no Tax Benefits may be carried forward.

17. Related Parties

Non-Operating Corporate

In September 2018, the Company entered into a 75-month lease for office space. As part of the agreement, INNOVATE was able to pay a lower security deposit and lease payments, and received favorable lease terms as consideration for landlord required cross default language in the event of default of the shared space leased by Harbinger Capital Partners, a company controlled by a former CEO of INNOVATE and formerly a related party, in the same building. With the adoption of ASC 842, as of January 1, 2019, this lease was recognized as a right-of-use asset and lease liability on the Consolidated Balance Sheets.

On May 9, 2023, the Company entered into a Stock Purchase Agreement and Subordinated Unsecured Promissory Note with CGIC, a significant shareholder, in the principal amount of $35.1 million. Refer to Note 11. Debt Obligations and Note 16. Temporary Equity and Equity for additional information.

In December 2023, the Company entered into a sublease agreement with PBCIC, a Florida not-for-profit corporation and related party to Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, who is also on the board of directors of PBCIC. Pursuant to the sublease, the Company allows PBCIC use of the underlying space with no required lease payments and, as consideration, PBCIC has agreed to undertake all of the tenant's build-out costs and related obligations under the lease agreement between the Company, as tenant, and RPP Palm Beach Property LP, as landlord. Refer to Note 9. Leases for additional information.

Lancer Capital, an entity controlled by Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, held $2.0 million of principal amount of the Company's $51.8 million 7.5% 2026 Convertible Notes, as of both December 31, 2023 and 2022. The $2.0 million in notes are convertible into 468,594 shares of common stock of INNOVATE Corp. upon conversion. Refer to Note 11. Debt Obligations for additional information on the 2026 Convertible Notes. During both the years ended December 31, 2023 and 2022, Lancer Capital earned $0.2 million in interest relating to these notes.

Infrastructure

Banker Steel previously leased two planes from Banker Aviation, LLC, a related party that is owned by Donald Banker, the former CEO of Banker Steel. During the first quarter of 2022, one of the two plane leases was terminated, and during the fourth quarter of 2023, the second plane lease was terminated. For the years ended December 31, 2023 and 2022, DBMG incurred lease expense related to these leases of $1.2 million and $1.3 million, respectively.

DBMG and Banker Steel, jointly and severally, have a subordinated 4.0% note payable to Banker Steel's former owner, in which Donald Banker's family trust has a 25% interest, and jointly and severally also had a subordinated 8.0% note payable to Donald Banker's family trust. During the year ended December 31, 2023, DBMG made $12.1 million in scheduled repayments of the principal on these notes and made accelerated repayments of $16.6 million in full settlement of the 8.0% subordinated note. Banker Steel also previously had a subordinated 11.0% note payable to Donald Banker of $6.3 million, which was redeemed in full by DBMG on April 4, 2022. As of December 31, 2023, the 4.0% note payable had a remaining balance of $5.0 million.

For the years ended December 31, 2023 and 2022, DBMG incurred aggregate interest expense related to these notes of $1.5 million and $2.3 million, respectively, and the accrued interest was $0.1 million and $0.5 million as of December 31, 2023 and 2022, respectively.

Life Sciences

During the year ended December 31, 2022, R2 Technologies entered into various note purchase agreements with Lancer Capital, an entity controlled by Avram A. Glazer, the Chairman of INNOVATE's Board of Directors, for an aggregate $10.8 million in notes at a 18% per annum interest rate as of December 31, 2022. During 2023, R2 closed on an additional $6.6 million of notes, including $1.3 million of unpaid accrued interest which was capitalized into the new principal balance, increasing the aggregate outstanding principal to $17.4 million as of December 31, 2023. The per annum interest rate on the outstanding principal balance also increased to 20%. In addition, after various amendments throughout 2023, R2 entered into an amendment with Lancer Capital on November 15, 2023 to extend the maturity date of all outstanding prior existing notes to the earlier of January 31, 2024 or within five business days of the date on which R2 receives an aggregate $20.0 million from the consummation of a debt or equity financing.

Subsequent to year end, the notes expired on January 31, 2024. Effective January 31, 2024, R2 and Lancer Capital simultaneously issued a new note with an aggregate original principal amount of $20.0 million, which is comprised of the prior outstanding principal amounts and unpaid accrued interest of $2.6 million, which was capitalized into the new principal balance, with future interest payable monthly in cash or, if not paid in cash, accrued and unpaid interest is capitalized monthly into the principal balance. The maturity date of the new note is April 30, 2024 or within five business days of the date on which R2 Technologies receives an aggregate $20.0 million from the consummation of a debt or equity financing or has a change in control, as defined in the agreement, with an optional prepayment of the entire then-outstanding and unpaid principal and accrued interest upon five-days written notice to Lancer Capital. The new note also includes an exit fee payable upon the earliest of the maturity date, the acceleration date of the principal amount of the note, for any reason as defined in the agreement, or the date upon which any prepayment is made. The exit fee shall be equal to 10.20% if payment is made anytime from February 1, 2024 through February 29, 2024, 10.37% if payment is made anytime from March 1, 2024 through March 31, 2024, and 10.54% if payment is made anytime from April 1, 2024 through April 30, 2024.

For the years ended December 31, 2023 and 2022, R2 Technologies recognized interest expense related to the contractual interest coupon with Lancer Capital of $2.9 million and $0.8 million, respectively. As of December 31, 2023 and 2022, R2 Technologies had accrued interest payable to Lancer Capital of $2.4 million and $0.8 million, respectively.

For the years ended December 31, 2023 and 2022, R2 Technologies recognized revenues of $0.7 million and $3.0 million, respectively, from sales to a subsidiary of Huadong, a related party of R2 Technologies. The were no related receivables from this subsidiary of Huadong as of December 31, 2023 and there were $0.6 million of related receivables from this subsidiary with Huadong as of December 31, 2022.

For the years ended December 31, 2023 and 2022, R2 Technologies incurred approximately $0.3 million and $0.4 million, respectively, of stock compensation and royalty expenses related to Blossom Innovations, LLC, an investor of R2 Technologies since 2014.

Refer to Note 6. Investments for transactions with equity method investees of the Company, refer to Note 9. Leases for related party transactions related to a lease and refer to Note 22. Subsequent Events for a related party transaction with Lancer Capital.

18. Operating Segments and Related Information

The Company currently has one primary reportable geographic segment - United States and primarily all revenue is derived in the United States. The Company has three reportable operating segments, plus our Other segment, based on management’s organization of the enterprise - Infrastructure, Life Sciences, Spectrum, and Other. The Company also has a Non-Operating Corporate segment. All inter-segment transactions are eliminated on consolidation. There are no inter-segment revenues.

The Company's revenue concentrations of 10% and greater were as follows:

		Year Ended December 31,	
	Segment	2023	2022
Customer A	Infrastructure	29.2%	23.8%
Customer B	Infrastructure	11.4%	*

* Less than 10% revenue concentration

Summarized financial information with respect to the Company's operating segments is as follows (in millions):

	Year Ended December 31,	
	2023	2022
Revenue		
Infrastructure	$ 1,397.2	$ 1,594.3
Life Sciences	3.3	4.3
Spectrum	22.5	38.7
Total revenue	$ 1,423.0	$ 1,637.3

	Year Ended December 31,	
	2023	2022
Income (loss) from operations		
Infrastructure	$ 64.4	$ 57.5
Life Sciences	(15.0)	(20.1)
Spectrum	(3.4)	(3.8)
Other	(3.1)	(0.6)
Non-Operating Corporate	(16.4)	(19.6)
Total income from operations	$ 26.5	$ 13.4

	Year Ended December 31,	
	2023	2022
Reconciliation of the consolidated segment income from operations to consolidated loss from operations before income taxes:		
Income from operations	$ 26.5	$ 13.4
Interest expense	(68.2)	(52.0)
Loss from equity investees	(9.4)	(1.3)
Other income (expense), net	16.7	(1.2)
Loss from operations before income taxes	$ (34.4)	$ (41.1)

	Year Ended December 31,	
	2023	2022
Depreciation and Amortization		
Infrastructure	$ 14.4	$ 21.0
Infrastructure recognized within cost of revenue	15.7	15.0
Total Infrastructure	30.1	36.0
Life Sciences	0.5	0.3
Life Sciences recognized within cost of revenue	0.1	—
Total Life Sciences	0.6	0.3
Spectrum	5.2	5.8
Non-Operating Corporate	0.1	0.1
Total depreciation and amortization	$ 36.0	$ 42.2

	Year Ended December 31,	
	2023	2022
Capital Expenditures [*]		
Infrastructure	$ 16.6	$ 16.5
Life Sciences	0.5	0.8
Spectrum	1.0	3.3
Non-Operating Corporate	0.3	0.1
Total	$ 18.4	$ 20.7

[*] The above capital expenditures exclude assets acquired under finance lease and other financing obligations.

	December 31, 2023	December 31, 2022
Investments		
Life Sciences	$ 1.8	$ 7.6
Other	—	51.9
Total	$ 1.8	$ 59.5

	December 31, 2023	December 31, 2022
Equity Method Investments (included in Investments above)		
Life Sciences	$ 0.9	$ 3.0
Other	—	40.6
Total	$ 0.9	$ 43.6

	December 31, 2023	December 31, 2022
Total Assets		
Infrastructure	$ 851.4	$ 879.3
Life Sciences	8.3	15.4
Spectrum	176.6	188.2
Other	—	53.6
Non-Operating Corporate	7.3	15.2
Total	$ 1,043.6	$ 1,151.7

19. Basic and Diluted Loss Per Common Share

Earnings (loss) per share is calculated using the two-class method, which allocates earnings among common stock and participating securities to calculate EPS when an entity's capital structure includes either two or more classes of common stock or common stock and participating securities. Unvested share-based payment awards that contain non-forfeitable rights to dividends or dividend equivalents (whether paid or unpaid) are participating securities. As such, shares of any unvested restricted stock of the Company are considered participating securities; however, they do not participate in losses and as such are excluded from the computation of basic earnings (loss) per share during periods of net losses. The dilutive effect, if applicable, of stock options and their equivalents (including non-vested stock issued under stock-based compensation plans), is computed using the "if-converted method" if this measurement is determined to be more dilutive between the two available methods in a period.

The Company had no dilutive common stock equivalents during the years ended December 31, 2023 and 2022 due to the results from continuing operations being a loss, net of tax. For the years ended December 31, 2023, and 2022, 951,861 and 868,104, respectively, of common stock equivalents from unvested restricted stock were excluded from the weighted average number of shares used to calculate diluted loss per share as their inclusion would have been anti-dilutive. Other instruments that may, in the future, if the average market price of the Company's stock exceeds the conversion prices, have a dilutive effect on earnings per share, but were excluded from the computation of diluted net loss per share for the years ended December 31, 2023 and 2022 are: preferred stock, convertible debt and stock options. The following table presents a reconciliation of net loss used in the basic and diluted EPS calculations (in millions, except per share amounts):

	Year Ended December 31, 2023	Year Ended December 31, 2022
Net loss	$ (38.9)	$ (42.0)
Net loss attributable to non-controlling interest and redeemable non-controlling interest	3.7	6.1
Net loss attributable to INNOVATE Corp.	(35.2)	(35.9)
Less: Preferred dividends	2.4	4.9
Net loss attributable to common stockholders	$ (37.6)	$ (40.8)
Weighted-average common stock outstanding	78.1	77.5
Loss per share - basic and diluted	$ (0.48)	$ (0.53)

20. Fair Value of Financial Instruments

Fair Value of Financial Instruments Not Measured at Fair Value

The following table presents the carrying amounts and estimated fair values of the Company's financial instruments, which were not measured at fair value on a recurring basis. The table excludes carrying amounts for cash and cash equivalents and restricted cash, accounts receivable and contract assets, accounts payable, contract liabilities and other current liabilities, and other assets and liabilities that approximate fair value due to relatively short periods to maturity (in millions):

December 31, 2023			Fair Value Measurement Using:		
	Carrying Value	Estimated Fair Value	Level 1	Level 2	Level 3
Assets					
Measurement alternative investment [1]	$ 0.9	$ 0.9	$ —	$ 0.9	$ —
Total assets not accounted for at fair value	$ 0.9	$ 0.9	$ —	$ 0.9	$ —
Liabilities					
Debt obligations [2]	$ 707.4	$ 621.8	$ 283.2	$ 338.6	$ —
Total liabilities not accounted for at fair value	$ 707.4	$ 621.8	$ 283.2	$ 338.6	$ —

(1) Refer to Note 6. Investments for additional information.
(2) Excludes lease obligations accounted for under ASC 842, *Leases*.

December 31, 2022			Fair Value Measurement Using:		
	Carrying Value	Estimated Fair Value	Level 1	Level 2	Level 3
Assets					
Measurement alternative investment [1]	$ 11.3	$ 11.3	$ —	$ —	$ 11.3
Total assets not accounted for at fair value	$ 11.3	$ 11.3	$ —	$ —	$ 11.3
Liabilities					
Debt obligations [2]	$ 712.3	$ 643.0	$ 237.6	$ 405.4	$ —
Total liabilities not accounted for at fair value	$ 712.3	$ 643.0	$ 237.6	$ 405.4	$ —

(1) Was comprised of a put option that related to the Company's 19% investment in HMN, which was sold March 6, 2023. Refer to Note 6. Investments for additional information.
(2) Excludes lease obligations accounted for under ASC 842, *Leases*.

Debt Obligations. The fair value of the Company's long-term obligations was determined using reporting from externally quoted market prices for INNOVATE's 8.50% 2026 Senior Secured Notes and for INNOVATE's 7.50% Convertible Senior Notes due 2026, which are reflected as Level 1 fair value measurements. All other long-term obligations of the Company are reflected as Level 2 fair value measurements, as this methodology combines direct recent transaction activity or, if available, market observations from contributed sources with quantitative pricing models or fair value reports from valuation providers to generate evaluated prices and are classified as Level 2 fair value measurements. Certain long-term obligations have a fair value estimate equal to their carrying value due to recent transaction activity. The fair value of the debt instruments is disclosed for informational purposes and does not necessarily represent the amount that would be realized upon settlement or transfer.

21. Supplementary Financial Information

Other income (expense), net

The following table provides information relating to Other income (expense), net (in millions):

	Year Ended December 31,	
	2023	2022
Gain on sale of investments	$ 12.0	$ —
Gain on step-up of equity method investment	3.8	—
Other	0.9	(1.2)
Total	$ 16.7	$ (1.2)

Supplemental Cash Flow Information

The following table provides a reconciliation of cash, cash equivalents and restricted cash to amounts reported within the Consolidated Balance Sheets and Consolidated Statements of Cash Flows (in millions):

	Year Ended December 31,	
	2023	2022
Cash and cash equivalents, beginning of the year	$ 80.4	$ 45.5
Restricted cash	0.3	2.0
Restricted cash included in other assets (non-current)	1.5	—
Total cash, cash equivalents and restricted cash, beginning of the year	$ 82.2	$ 47.5
Cash and cash equivalents, end of the year	$ 80.8	$ 80.4
Restricted cash	0.9	0.3
Restricted cash included in other assets (non-current)	0.6	1.5
Total cash and cash equivalents and restricted cash, end of the year	$ 82.3	$ 82.2
Supplemental cash flow information:		
Cash paid for interest	$ 49.0	$ 42.5
Cash paid for taxes, net of refunds	$ 6.7	$ 5.9
Non-cash investing and financing activities:		
Unsecured note issued in connection with purchase of preferred stock and payment of dividends	$ 35.1	$ —
Accrued interest, exit fees and other fees capitalized into principal debt	$ 1.3	$ 17.5
Property, plant and equipment included in accounts payable or accrued expenses	$ 0.9	$ 0.4
Issuance of preferred stock	$ —	$ 0.9

22. Subsequent Events

Rights Offering and Private Placement

On February 23, 2024, the Company's Board of Directors approved a plan to proceed with a $19.0 million rights offering for its common stock and fixed March 6, 2024 as the record date for holders of common stock entitled to participate in the rights offering. On March 5, 2024, the Company set the subscription price at which the rights would be exercisable at $0.70 per share and entered into an investment agreement (the "Investment Agreement") with Lancer Capital, a related party and an entity controlled by Avram A. Glazer, the Chairman of INNOVATE's Board of Directors and a beneficial owner of 29.1% of the Company's common stock, pursuant to which the rights offering will be backstopped by Lancer Capital. Because the rules of the NYSE prohibit the issuance to Lancer Capital of more than 1% of our common stock outstanding before the issuance unless stockholder approval of such issuance is obtained, in lieu of purchasing common stock under the back-stop arrangement Lancer Capital will purchase up to $19.0 million of Series C Non-Voting Participating Convertible Preferred Stock, par value $0.001 per share ("Series C Preferred Stock") to be newly authorized by the Company. The Series C Preferred Stock is intended to be the economic equivalent of common stock, participating on an as-converted basis in all dividends, distributions, merger consideration and all other consideration receivable by holders of common stock, and a means through which the back-stop arrangement can be effected prior to the completion of the stockholder vote and the satisfaction of any other regulatory requirements. Pursuant to the Investment Agreement, and as a result of limitations on the amount that can be raised under the Company's effective shelf registration statement on Form S-3, Lancer Capital will also purchase an additional $16.0 million of Series C Preferred Stock in a private placement transaction to close concurrently with the settlement of the rights offering. Under the rules of the NYSE, because the shares Lancer Capital will purchase in the concurrent private placement are greater than 20% of our common stock outstanding before the issuance of the Series C Preferred, those shares of Series C Preferred Stock may not be converted unless stockholder approval of such issuance is obtained. The Investment Agreement provides that, in the event that for any reason the rights offering is not settled by March 28, 2024, then Lancer Capital will purchase $25 million of Series C Preferred Stock. The Company refers to this arrangement as the "equity advance." Upon the closing of the rights offering, to the extent that Lancer Capital would have, based on the number of shares of common stock actually sold upon exercise of the rights, purchased less than $25 million of Series C Preferred Stock under the back-stop commitment and the concurrent private placement, the Company will redeem the excess shares of Series C Preferred Stock purchased by Lancer Capital under the equity advance at the redemption price of $1,000 per share from the proceeds of the rights offering.

The Series C Preferred Stock terms are set forth in a form of certificate of designations attached as Exhibit A to the Investment Agreement and include a liquidation preference junior to the Company's existing preferred stock and equal to the Company's common stock (other than a preference of $0.001 per share of Series Preferred Stock that will be paid to the holders of thereof before any payment or distribution is made to the holders of the common stock). The certificate of designations for the Series C Preferred Stock will be filed with the Secretary of State of the State of Delaware on the early of the closing of the equity advance of the settlement of the rights offering.

In connection with the Investment Agreement, on March 5, 2024 the Company and Lancer entered into a registration rights agreement (the "Registration Rights Agreement") pursuant to which the Company granted Lancer certain customary shelf demand and piggyback registration rights with respect to the common stock issuable upon conversion of the Series C Preferred Stock purchased under the Investment Agreement.

Assuming that the Company proceeds with the rights offering and that shares of Series C Preferred Stock are issued to Lancer pursuant to the Investment Agreement the Company intends to seek stockholder approval for the conversion of the Series C Preferred Stock into shares of our common stock at the Company's 2024 annual stockholders meeting.

The Series C Preferred Stock to be issued to Lancer pursuant to the Investment Agreement will not be registered under the Act and may not be offered or sold in the United States absent registration or an applicable exemption from registration requirements.

AMENDMENT OF SENIOR SECURED PROMISSORY NOTES

This Amendment of Senior Secured Promissory Notes (this "**Amendment**"), dated effective as of November 15, 2023 (the "**Effective Date**"), is entered into by and between R2 Technologies, Inc., a Delaware corporation (the "**Company**"), and Lancer Capital LLC ("**Investor**"). Capitalized terms used herein, but not otherwise defined herein, shall have the meaning assigned to them in the Notes (as defined below).

RECITALS

WHEREAS, the Company and Investor are parties to those certain Senior Secured Promissory Notes, dated March 31, 2023 (in the principal amount of $13,028,194.90), April 28, 2023 (in the principal amount of $425,000.00), May 12, 2023 (in the principal amount of $525,000.00), May 31, 2023 (in the principal amount of $650,000.00), June 14, 2023 (in the principal amount of $562,500.00), June 28, 2023 (in the principal amount of $472,500.00), July 14, 2023 (in the principal amount of $562,500.00), July 28, 2023 (in the principal amount of $562,500.00), and August 15, 2023 (in the principal amount of $562,500.00), each amended by that certain Amendment of Senior Secured notes dated August 15, 2023 (collectively, the "**Notes**"); and

WHEREAS, the Company and the undersigned Investors desire to amend the Notes as provided herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and for other valuable consideration the receipt of which is hereby acknowledged, the Company and Investor hereby amend each of the Notes in the following manner:

1. Section 1 of the Notes. Section 1 of the Notes is hereby deleted in its entirety and replaced with the following:

> **"1 Repayment**. The entire then-outstanding and unpaid principal amount of this Note, together with any accrued but unpaid interest under this Note (the "**Outstanding Amount**"), shall be due and payable on the earlier to occur of (i) January 31, 2024, or (ii) within five (5) business days after the date on which the Company receives an aggregate of $20,000,000 or more from the consummation of one or more bona fide debt or equity financings, other capital investments, or capital contributions, whether from new or existing equity holders or debt holders, or (iii) concurrently with the closing of the sale of substantially all of the assets of the Company or any transaction resulting in a Change of Control (as defined below) of the Company (such applicable date, the "**Maturity Date**"). The Notes shall rank pari passu in right of payment with respect to each other Note, and all payments to each of the Holders under the Notes shall be made pro rata among the Holders based upon the aggregate unpaid principal amount of the Notes outstanding immediately prior to any such payment. All payments shall be made in lawful money of the United States of America at such place as the Holder hereof may from time to time designate in writing to the Company. Interest shall accrue on this Note but shall not be due and payable until the Holder's written request for repayment after the Maturity Date. For purposes hereof, a "**Change of Control**" means (a) any person or group of persons within the meaning of §13(d)(3) of the Securities Exchange Act of 1934 becomes the beneficial owner, directly or indirectly, of a majority of the outstanding equity interests of the Company, (b) INNOVATE Corp. shall cease to own and control, directly or indirectly, a majority of the equity interests or a majority of the voting power of the Company."

2. Effect on Notes. The term "Notes" as used in the Notes shall at all times refer to, collectively, the Notes as amended by this Amendment. Except as amended hereby, the Notes shall remain in full force and effect.

3. Expenses. The Company agrees to pay all reasonable attorneys' fees incurred by Investor in connection with this Amendment.

4. Further Instruments. The undersigned parties agree to execute such further instruments and to take such further action as may reasonably be necessary to carry out the intent of this Amendment.

5. Applicable Law; Entire Agreement; Amendments. This Amendment shall be governed by and construed in accordance with the laws of the State of Delaware as it applies to agreements between Delaware residents, entered into and to be performed entirely within Delaware. This Amendment constitutes the entire agreement of the parties with respect to the subject matter hereof superseding all prior written or oral agreements, and no amendment or addition hereto shall be deemed effective unless agreed to in writing by the parties hereto.

6. Counterparts; Electronic Delivery. This Amendment may be executed and delivered electronically and in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

[Signature Page Follows]

The parties have executed this Amendment of Senior Secured Promissory Notes as of the date first written above.

R2 TECHNOLOGIES, INC.

By: */s/ Tim Holt*
Name: Timothy Holt
Title: Chief Executive Officer

LANCER CAPITAL LLC

By: Avram Glazer Irrevocable Exempt Trust,
its Sole Member

By: */s/ Avram Glazer*
Name: Avram Glazer
Title: Trustee

INNOVATE CORP.

CLAWBACK POLICY

The Board of Directors (the "***Board***") of INNOVATE Corp. (the "***Company***") believes that it is appropriate for the Company to adopt this Clawback Policy (the "***Policy***") to be applied to the Executive Officers of the Company and adopts this Policy to be effective as of the Effective Date.

1. Definitions

For purposes of this Policy, terms defined in the preamble have their assigned meanings, and the following terms have the meanings set forth below:

a) "Committee" means the Compensation Committee of the Board.

b) "Company Group" means the Company and each of its Subsidiaries, as applicable.

c) "Covered Compensation" means any Incentive-Based Compensation granted, vested or paid to a person who served as an Executive Officer at any time during the performance period for the Incentive-Based Compensation and that was Received (i) on or after the effective date of the NYSE listing standard, (ii) after the person became an Executive Officer and (iii) at a time that the Company had a class of securities listed on a national securities exchange or a national securities association.

d) "Effective Date" means November 2, 2023.

e) "Erroneously Awarded Compensation" means the amount of Covered Compensation granted, vested or paid to a person during the fiscal period when the applicable Financial Reporting Measure relating to such Covered Compensation was attained that exceeds the amount of Covered Compensation that otherwise would have been granted, vested or paid to the person had such amount been determined based on the applicable Restatement, computed without regard to any taxes paid (*i.e.*, on a pre-tax basis). For Covered Compensation based on stock price or total shareholder return, where the amount of Erroneously Awarded Compensation is not subject to mathematical recalculation directly from the information in a Restatement, the Committee will determine the amount of such Covered Compensation that constitutes Erroneously Awarded Compensation, if any, based on a reasonable estimate of the effect of the Restatement on the stock price or total shareholder return upon which the Covered Compensation was granted, vested or paid and the Committee shall maintain documentation of such determination and provide such documentation to the NYSE.

f) "Exchange Act" means the Securities Exchange Act of 1934, as amended.

g) "Executive Officer" means each "officer" of the Company as defined under Rule 16a-1(f) under Section 16 of the Exchange Act, which shall be deemed to include any individuals identified by the Company as executive officers pursuant to Item 401(b) of Regulation S-K under the Exchange Act. Both current and former Executive Officers are subject to the Policy in accordance with its terms.

h) "Financial Reporting Measure" means (i) any measure that is determined and presented in accordance with the accounting principles used in preparing the Company's financial statements, and any measures derived wholly or in part from such measures and may consist of GAAP or non-GAAP financial measures (as defined under Regulation G of the Exchange Act and Item 10 of Regulation S-K under the Exchange Act), (ii) stock price or (iii) total shareholder return. Financial Reporting Measures may or may not be filed with the SEC and may be presented outside the Company's financial statements, such as in Managements' Discussion and Analysis of Financial Conditions and Result of Operations or in the performance graph required under Item 201(e) of Regulation S-K under the Exchange Act.

i) "Home Country" means the Company's jurisdiction of incorporation.

j) "Incentive-Based Compensation" means any compensation that is granted, earned or vested based wholly or in part upon the attainment of a Financial Reporting Measure.

k) "Lookback Period" means the three completed fiscal years (plus any transition period of less than nine months that is within or immediately following the three completed fiscal years and that results from a change in the Company's fiscal year) immediately preceding the date on which the Company is required to prepare a Restatement for a given reporting period, with such date being the earlier of: (i) the date the Board, a committee of the Board, or the officer or officers of the Company authorized to take such action if Board action is not required, concludes, or reasonably should have concluded, that the Company is required to prepare an Restatement or (ii) the date a court, regulator or other legally authorized body directs the Company to prepare a Restatement. Recovery of any Erroneously Awarded Compensation under the Policy is not dependent on if or when the Restatement is actually filed.

l) "NYSE" means the New York Stock Exchange.

m) "Received" has the following meaning: Incentive-Based Compensation is deemed "Received" in the Company's fiscal period during which the Financial Reporting Measure specified in or otherwise relating to the Incentive-Based Compensation award is attained, even if the grant, vesting or payment of the Incentive-Based Compensation occurs after the end of that period.

n) "Restatement" means a required accounting restatement of any Company financial statement due to the material noncompliance of the Company with any financial reporting requirement under the securities laws, including (i) to correct an error in previously issued financial statements that is material to the previously issued

financial statements (commonly referred to as a "Big R" restatement) or (ii) to correct an error in previously issued financial statements that is not material to the previously issued financial statements but that would result in a material misstatement if the error were corrected in the current period or left uncorrected in the current period (commonly referred to as a "little r" restatement). Changes to the Company's financial statements that do not represent error corrections under the then-current relevant accounting standards will not constitute Restatements. Recovery of any Erroneously Awarded Compensation under the Policy is not dependent on fraud or misconduct by any person in connection with the Restatement.

o) "SEC" means the United States Securities and Exchange Commission.

p) "Subsidiary" means any domestic or foreign corporation, partnership, association, joint stock company, joint venture, trust or unincorporated organization "affiliated" with the Company, that is, directly or indirectly, through one or more intermediaries, "controlling", "controlled by" or "under common control with", the Company. The term "Control" for this purpose means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of such person, whether through the ownership of voting securities, contract or otherwise.

2. Recoupment of Erroneously Awarded Compensation

In the event of a Restatement, any Erroneously Awarded Compensation Received during the Lookback Period prior to the Restatement (a) that is then-outstanding but has not yet been paid shall be automatically and immediately forfeited and (b) that has been paid to any person shall be subject to reasonably prompt repayment to the Company Group in accordance with Section 3 of this Policy. The Committee must pursue (and shall not have the discretion to waive) the forfeiture and/or repayment of such Erroneously Awarded Compensation in accordance with Section 3 of this Policy, except as provided below.

Notwithstanding the foregoing, the Committee (or, if the Committee is not a committee of the Board responsible for the Company's executive compensation decisions and composed entirely of independent directors, a majority of the independent directors serving on the Board) may determine not to pursue the forfeiture and/or recovery of Erroneously Awarded Compensation from any person if the Committee determines that such forfeiture and/or recovery would be impracticable due to any of the following circumstances: (i) the direct expense paid to a third party (for example, reasonable legal expenses and consulting fees) to assist in enforcing the Policy would exceed the amount to be recovered (following reasonable attempts by the Company Group to recover such Erroneously Awarded Compensation, the documentation of such attempts, and the provision of such documentation to the NYSE), (ii) pursuing such recovery would violate the Company's Home Country laws adopted prior to November 28, 2022 (provided that the Company obtains an opinion of Home Country counsel acceptable to the NYSE that recovery would result in such a violation and provides such opinion to the NYSE) or (iii) recovery would likely cause any otherwise tax-qualified retirement plan, under which benefits are broadly available to employees of Company Group, to fail to meet the requirements of 26 U.S.C. 401(a)(13) or 26 U.S.C. 411(a) and regulations thereunder.

3. Means of Repayment

In the event that the Committee determines that any person shall repay any Erroneously Awarded Compensation, the Committee shall provide written notice to such person by email or certified mail to the physical address on file with the Company Group for such person, and the person shall satisfy such repayment in a manner and on such terms as required by the Committee, and the Company Group shall be entitled to set off the repayment amount against any amount owed to the person by the Company Group, to require the forfeiture of any award granted by the Company Group to the person, or to take any and all necessary actions to reasonably promptly recoup the repayment amount from the person, in each case, to the fullest extent permitted under applicable law, including without limitation, Section 409A of the Internal Revenue Code, as amended and the regulations and guidance thereunder. If the Committee does not specify a repayment timing in the written notice described above, the applicable person shall be required to repay the Erroneously Awarded Compensation to the Company Group by wire, cash or cashier's check no later than thirty (30) days after receipt of such notice.

4. No Indemnification

No person shall be indemnified, insured or reimbursed by the Company Group in respect of any loss of compensation by such person in accordance with this Policy, nor shall any person receive any advancement of expenses for disputes related to any loss of compensation by such person in accordance with this Policy, and no person shall be paid or reimbursed by the Company Group for any premiums paid by such person for any third-party insurance policy covering potential recovery obligations under this Policy. For this purpose, the term "indemnification" includes any modification to current compensation arrangements or other means that would amount to *de facto* indemnification (for example, providing the person a new cash award which would be cancelled to effect the recovery of any Erroneously Awarded Compensation). In no event shall the Company Group be required to award any person an additional payment if any Restatement would result in a higher incentive compensation payment.

5. Miscellaneous

This Policy generally will be administered and interpreted by the Committee. Any determination by the Committee with respect to this Policy shall be final, conclusive and binding on all interested parties. Any discretionary determinations of the Committee under this Policy, if any, need not be uniform with respect to all persons, and may be made selectively amongst persons, whether or not such persons are similarly situated.

This Policy is intended to satisfy the requirements of Section 954 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, as it may be amended from time to time, and any related rules or regulations promulgated by the SEC or the NYSE, including any additional or new requirements that become effective after the Effective Date which upon effectiveness shall be deemed to automatically amend this Policy to the extent necessary to comply with such additional or new requirements.

The provisions in this Policy are intended to be applied to the fullest extent of the law. To the extent that any provision of this Policy is found to be unenforceable or invalid under any applicable law, such provision will be applied to the maximum extent permitted and shall automatically be deemed amended in a manner consistent with its objectives to the extent necessary to conform to applicable law. The invalidity or unenforceability of any provision of this Policy shall not affect the validity or enforceability of any other provision of this Policy. Recoupment of Erroneously Awarded Compensation under this Policy is not dependent upon the Company Group satisfying any conditions in this Policy, including any requirements to provide applicable documentation to the NYSE.

The rights of the Company Group under this Policy to seek forfeiture or reimbursement are in addition to, and not in lieu of, any rights of recoupment, or remedies or rights other than recoupment, that may be available to the Company Group pursuant to the terms of any law, government regulation or stock exchange listing requirement or any other policy, code of conduct, employee handbook, employment agreement, equity award agreement, or other plan or agreement of the Company Group.

6. Amendment and Termination

To the extent permitted by, and in a manner consistent with applicable law, including SEC and NYSE rules, the Committee may terminate, suspend or amend this Policy at any time in its discretion.

7. Successors

This Policy shall be binding and enforceable against all persons and their respective beneficiaries, heirs, executors, administrators or other legal representatives with respect to any Covered Compensation granted, vested or paid to or administered by such persons or entities.

* * * * *

INNOVATE CORP.

CLAWBACK POLICY

ACKNOWLEDGMENT, CONSENT AND AGREEMENT

I acknowledge that I have received and reviewed a copy of the INNOVATE Corp. Clawback Policy effective November 2, 2023, as may be amended from time to time (the "***Policy***") and I have been given an opportunity to ask questions about the Policy and review it with my counsel. I knowingly, voluntarily and irrevocably consent to an agree to be bound by and subject to the Policy's terms and conditions, including that I will return any Erroneously Awarded Compensation that is required to be repaid in accordance with the Policy. I further acknowledge, understand and agree that (i) the compensation that I receive, have received or may become entitled to receive from the Company Group is subject to the Policy, and the Policy may affect such compensation and (ii) I have no right to indemnification, insurance payments or other reimbursement by or from the Company Group for any compensation that is subject to recoupment and/or forfeiture under the Policy. Capitalized terms not defined herein have the meanings set forth in the Policy.

Signed: _____

Print Name: _____

Date: _____

Exhibit 10.67

Updated: November 2, 2023

INNOVATE CORP.

INSIDER TRADING POLICY

INNOVATE CORP.

INSIDER TRADING POLICY

Purpose

The purpose of this Insider Trading Policy (the ***Policy***") is to promote compliance with applicable securities laws by INNOVATE Corp. ("***INNOVATE***" or the "***Company***") and its subsidiaries and all directors, officers and employees thereof, in order to preserve the reputation and integrity of the Company as well as that of all persons affiliated with it.

Scope

This Policy applies to (i) all directors, officers and employees of the Company, its subsidiaries and controlled affiliates (collectively, the "***Subsidiaries***"), their respective family members living in their households, anyone else living in their households, and any family members who do not live in their households but whose transactions in Company Securities (as defined below) are directed by them or are subject to their influence or control (collectively, "***Immediate Family Members***"), (ii) other persons as may be designated from time to time by the Chief Executive Officer, in consultation with the Chief Financial Officer, and (iii) any entities influenced or controlled by or for the benefit of individuals subject to the Policy, including any corporations, partnerships or trusts (all persons or entities described in the foregoing clauses (i), (ii) and (iii) being collectively referred to as "***Covered Persons***"). Transactions by the entities described in the foregoing clause (iii) should be treated for the purposes of this Policy and applicable securities laws as if they were for the individual's own account.

The Policy applies to any and all transactions in the Company's securities. For purposes of this Policy, the Company's securities include without limitation its common stock, options to purchase or sell its common stock, preferred stock, convertible and non-convertible debentures, warrants and other similar instruments, and exchange-traded options or other derivative securities related thereto (collectively, "***Company Securities***"). The Policy also governs similar transactions in the securities of other entities, including without limitation (i) Subsidiaries, (ii) any other company in which the Company has a direct or indirect beneficial ownership interest, and (iii) for Restricted Security Persons (as defined below) only, companies included on the prohibited trading list maintained by the Company's Compliance Department (as such list may be amended from time to time, the "***Prohibited Trading List***").

For the purposes of this Policy, the term "***INNOVATE Entity***" means (a) for all Covered Persons who are Restricted Security Persons, any company meeting the definition of the foregoing clauses (i), (ii) or (iii), and (b) for all Covered Persons who are not Restricted Security Persons, any company meeting the definition of the foregoing clauses (i) or (ii). The Prohibited Trading List shall contain a list of companies with which the Company has entered into a non-disclosure or other confidentiality agreement with respect to a potential investment or acquisition or any other potential investment or acquisition. Companies shall be added to and removed from

the Prohibited Trading List at the discretion of the Chief Executive Officer in consultation with the Compliance Department. Before entering into a transaction potentially covered by this Policy with respect to a company, a Restricted Security Person shall first be required to confirm with the Compliance Department or his or her designee that such company is not on the Prohibited Trading List, as more fully set forth in the "Transaction Pre-approvals" section of this Policy.

For the purposes of this Policy, "Restricted Security Persons" include (i) all directors and executive officers of the Company, (ii) those officers and other employees of the Company and its Subsidiaries who regularly work on mergers and acquisitions and related investment opportunities, (iii) other employees of the Company and its Subsidiaries as may be designated from time to time by the Chief Executive Officer in consultation with the Chief Financial Officer and the Compliance Department, (iv) the respective Immediate Family Members of any person covered by clauses (i), (ii) or (iii) of this paragraph and (v) any entities influenced or controlled by or for the benefit of any of the foregoing, including any corporations, partnerships or trusts. The Compliance Department shall maintain a list of all persons covered by this paragraph (the "***Restricted Security Person List***").

Prohibited Activities in Company Securities

No Covered Person may trade, buy, sell, transfer, dispose of or acquire Company Securities while in possession of material, non-public information concerning the Company and for one (1) full trading day after the date such material information has been publicly released. Notwithstanding the foregoing, this Policy shall not be deemed to prohibit:

purchases of Company Securities by a Covered Person from the Company or sales of Company Securities by a Covered Person to the Company;

the exercise of employee stock options or other equity awards or the surrender of shares to the Company in payment of the exercise price or in satisfaction of any tax withholding obligations in a manner permitted by the applicable equity award agreement, or vesting of equity-based awards, that in each case do not involve a market sale of Company Securities (the "cashless exercise" of a Company stock option through a broker does involve a market sale of Company Securities, and therefore would not qualify under this exception);

bona fide gifts of Company Securities, provided such gifts do not violate any relevant securities laws;; or

purchases or sales of Company Securities made pursuant to a properly established 10b5-1 Plan (as defined below under "Rule 10b5-1 Trading Plans") that has been approved in writing by the Chief Financial Officer (or in the case of the Chief Financial Officer, by the Chief Executive Officer) in accordance with this Policy and has not been modified in any respect after such initial approval without such modification being approved in writing in accordance with this Policy.

No Covered Person may "tip" or disclose material, non-public information to any outside person (including spouses, parents, children, siblings or other family members, individuals sharing the same household, investors, or members of the investment community and/or news media), unless in accordance with the Company's policies regarding the protection or authorized external disclosure of Company information. Furthermore, no Covered Person may give trading advice of any kind about the Company or Company Securities to anyone, whether or not such Covered Person is aware of material, non-public information.

Prohibited Activities in INNOVATE Entity Securities

Acquisitions

No Covered Person may acquire any securities (including without limitation common stock, options to purchase or sell common stock, preferred stock, convertible and non-convertible debentures, warrants and other similar instruments, and exchange-traded options or other derivative securities related thereto) of an INNOVATE Entity ("***INNOVATE Entity Securities***") at any time, whether or not such securities are publicly traded and whether or not the Covered Person is in possession of material non-public information about the applicable INNOVATE Entity, without the prior written consent of INNOVATE's Chief Financial Officer.

Notwithstanding the foregoing, this Policy shall not be deemed to prohibit grants of INNOVATE Entity Securities to a Covered Person pursuant to an incentive compensation plan, employee benefit plan, employment agreement or director compensation plan.

Sales, Dispositions and Tipping

No Covered Person may sell, transfer or dispose of INNOVATE Entity Securities as to which the Covered Person is in possession of material, non-public information. In addition, no Restricted Security Person may sell, transfer, or dispose of the securities of any company included on the Prohibited Trading List.

No Covered Person may "tip" or disclose material, non-public information regarding any INNOVATE Entity to any outside person, unless in accordance with the Company's policies regarding the protection or authorized external disclosure of such information. Furthermore, no Covered Person may give trading advice of any kind about any INNOVATE Entity or INNOVATE Entity Securities to anyone, whether or not such Covered Person is aware of material, non-public information about that company.

Prohibited Activities in Other Companies' Securities

No Covered Person may, while in possession of material, non-public information about any other public company gained in the course of his or her relationship with the Company, trade in the securities of the other public company while aware of such material, non-public information concerning that company, "tip" or improperly disclose such material, non-public information concerning that company to anyone or give trading advice of any kind to anyone

concerning the other public company while aware of such material, non-public information about that company.

No Covered Person shall engage in a transaction intended to circumvent or otherwise achieve a result inconsistent with the purpose and intent of this Policy. For example, a Covered Person should not transact in an index investment in which Company Securities are a meaningful component if the basis for such transaction is material, non-public information concerning the Company Securities.

Material, Non-Public Information

Information about the Company or any other company is "material" when a reasonable investor would consider it important in making an investment decision to buy or sell such company's securities. In simple terms, material information is any type of information that could reasonably be expected to affect the price of a company's securities. While it is not possible to identify all information that would be deemed material, examples of information that would generally be considered material include the following:

financial performance;

potential mergers, acquisitions, dispositions or recapitalizations;

new major contracts, orders, suppliers, customers, or finance sources, or the loss thereof;

significant changes in volume, market share or product pricing;

stock splits, public or private securities/debt offerings, or changes in a company's dividend policies or amounts;

significant changes in senior management or the board of directors;

actual, threatened or potential exposure to major litigation, or the resolution of such litigation;

significant cybersecurity incidents, including computer system or network compromises, data breaches, technological failure or human error;

approvals or denials of requests for regulatory approval by government agencies of significant products, patents or trademarks;

the contents of forthcoming publications that may affect the market price of a company's securities;

significant changes in accounting treatment, write-offs or effective tax rate; and

impending bankruptcy or financial liquidity problems of the company.

Material, non-public information is material information that has not been disclosed generally to the marketplace. Information is considered "non-public" until it has been widely disseminated to the public through a Securities and Exchange Commission (the "***SEC***") filing, press release, or other non-exclusionary method of disclosure reasonably designed to provide public access, and there has been sufficient time for the market to digest that information.

Any Covered Person who is unsure whether the information that he or she possesses constitutes material, non-public information should consult the Chief Financial Officer for guidance before trading in any Company Securities.

Pledges and Margin Loans

Purchasing on margin means borrowing from a brokerage firm, bank or other entity in order to purchase Company Securities (other than in connection with a cashless exercise of stock options through a broker under the Company's equity plans). Securities held in a margin account may be sold by the broker without the customer's consent if the customer fails to meet a margin call. Similarly, securities pledged (or hypothecated) as collateral for a loan may be sold in foreclosure if the borrower defaults on the loan. Because a margin sale or foreclosure sale may occur at a time when the pledgor is aware of material non-public information or otherwise is not permitted to trade in Company Securities or INNOVATE Entity Securities, Covered Persons are prohibited from pledging Company Securities or INNOVATE Entity Securities as collateral to secure loans or purchasing Company Securities on margin. An exception to this prohibition may be granted by the Chief Financial Officer where a Covered Person wishes to pledge Company Securities as collateral to secure loans or purchase Company Securities on margin where, among other factors, the Covered Person clearly demonstrates the financial capacity and liquidity to repay the loan without resort to the pledged securities; provided that Covered Persons may only pledge Company Securities if (i) such securities represent less than 25% of the Company Securities held by such employee (excluding any unvested equity awards); (ii) such Company Securities represent less than 5% of the outstanding capital stock of the Company; and (iii) a request for approval of the Chief Financial Officer is submitted at least two weeks prior to execution (unless the Chief Financial Officer waives or shortens such notice requirement) and approval is granted. If an individual that was not previously a Covered Person (x) holds Company Securities in a margin account or is pledging Company Securities as a collateral of a loan and (y) becomes a Covered Person, such Covered Person shall promptly request approval from the Chief Financial Officer, and such approval shall be provided if such arrangement was already in place before the individual initially became a Covered Person and, as reasonably determined by the Chief Financial Officer, the aggregate amount of such Company Securities in the margin account and/or pledged is not material.

Hedging

Covered Persons are prohibited from purchasing financial instruments (including prepaid variable forward contracts, equity swaps, collars, and exchange funds) that are designed to hedge or offset any decrease in the market value of Company Securities or INNOVATE Entity Securities and from engaging in any other type of transaction in Company Securities or INNOVATE Entity Securities that would have similar economic consequences.

Short Sales

Covered Persons are prohibited from engaging in short sales (and uncovered short derivative positions) of Company Securities and INNOVATE Entity Securities.

Other Transactions

Covered Persons are encouraged to consult with the Compliance Department **before** entering into arrangements involving any Company Securities or INNOVATE Entity Securities under circumstances that are not expressly contemplated in this Policy ("***Other Transactions***"), which may also be subject to the foregoing restrictions. Other Transactions by Restricted Security Persons and Blackout Persons (as defined below) are subject to the "Transaction Pre-approvals" section of this Policy.

Blackout Periods

In addition to the foregoing restrictions, Blackout Persons are presumed to be in possession of material, non-public information in the ordinary course of their duties with the Company, and therefore are subject to more restrictive limitations on when they may buy or sell Company Securities, as follows:

Quarterly Restrictions.

Blackout Persons are prohibited from buying, selling or otherwise transferring or trading in any Company Securities beginning from fourteen (14) calendar days before the end of a fiscal quarter and ending upon the completion of the first full trading day after the Company has publicly disseminated its financial results for such fiscal quarter (any such period, a "***Blackout Period***").

Exceptions to the Blackout Period policy may be approved only by the Chief Financial Officer (or, in the case of an exception for the Chief Financial Officer or persons or entities subject to this Policy as a result of their relationship with the Chief Financial Officer, the Chief Executive Officer or, in the case of exceptions for directors or persons or entities subject to this Policy as a result of their relationship with a director, the Board of Directors).

Trades by Blackout Persons outside of Blackout Periods may take place provided that (a) the Blackout Person does not then have knowledge of material, non-public information and (b) the proposed trade would not otherwise violate federal securities laws or the terms of this Policy.

Notwithstanding the foregoing, this Policy shall not be deemed to prohibit grants of INNOVATE Entity Securities to a Covered Person pursuant to an incentive compensation plan, employee benefit plan, employment agreement or director compensation plan during a Blackout Period.

For purposes of this Policy, "Blackout Persons" include (i) all Restricted Security Persons, (ii) all directors and officers of the Company and its Subsidiaries, (iii) other employees of the Company and its Subsidiaries as may be designated by the Chief Executive Officer or

Chief Financial Officer, (iv) the respective Immediate Family Members of any person covered by clauses (i), (ii) or (iii) of this paragraph and (v) any entities influenced or controlled by or for the benefit of any of the foregoing, including any corporations, partnerships or trusts.

Additional Restrictions in Specific Circumstances.

From time to time, the Chief Executive Officer, the Chief Financial Officer or the Chief Financial Officer may recommend, or require, that directors, officers, designated employees and others refrain from trading because of developments known to the Company and not yet disclosed to the public. Such developments may include (but are not limited to) potential mergers, acquisitions, dispositions or recapitalizations, significant changes in volume, market share or product pricing and the occurrence of significant cybersecurity incidents. In such a case, the persons so advised shall not engage in any transaction involving the purchase, sale or other transfer of Company Securities or INNOVATE Entity Securities until advised that the restriction has been terminated and should not disclose to others inside or outside of the Company the fact that such a trading restriction has been imposed. Restricted Security Persons are at all times prohibited from trading in the securities of any company included on the Prohibited Trading List.

Transaction Pre-Approvals

Restricted Security Persons and Blackout Persons are required to obtain the written approval of the Chief Financial Officer (or in the case of the Chief Financial Officer, the written approval of the Chief Executive Officer or the Chief Financial Officer) before buying, selling, transferring or otherwise trading any Company Securities or selling, transferring or otherwise disposing of INNOVATE Entity Securities, regardless of whether they are subject to a Blackout Period at the time they intend to transact. Furthermore, Restricted Security Persons and Blackout Persons also are required to obtain the written approval of the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer) before entering into Other Transactions and entering into any arrangement with respect to Company Securities or INNOVATE Entity Securities that is not otherwise expressly contemplated in this Policy. A request for approval of a transaction should be made at least three (3) business days in advance of the proposed transaction. In addition, the Restricted Security Person or Blackout Persons must execute a certification (in a form approved by the Compliance Department) that he, she or it is not aware of material, nonpublic information about the company whose securities he, she or it wishes to trade. Should the Company, at some time in the future, determine to automate this pre-approval process through the use of financial tracking software, all Restricted Security Persons and Blackout Persons will be required to register with the software vendor and follow instructions provided for proper compliance through such software program.

All trades that are approved by the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer) must be effected within five (5) business days of receipt of such approval unless a specific exception has been granted by the Chief Financial Officer orChief Executive Officer, as applicable. A pre-approved trade (or any portion of a pre-approved trade) that has not been effected during the five (5) business day period must be approved again prior to execution. Notwithstanding receipt of approval from the Chief Financial Officer or Chief Executive Officer, as applicable, if the Restricted Security Person or Blackout

Person becomes aware of material, non-public information or becomes subject to a Blackout Period or other trading suspension before the transaction is effected, the transaction may not be completed.

Rule 10b5-1 Trading Plans

Rule 10b5-l under the Exchange Act was adopted by the SEC to protect persons from insider trading liability for transactions under a written contract, instruction or plan previously established at a time when the insider did not possess material, non-public information and entered into in good faith and in accordance with all applicable federal and state laws. Under a properly established 10b5-1 plan (a "***10b5-1 Plan***"), Covered Persons may complete transactions in Company Securities at any time, including during Blackout Periods and other times when the Covered Person possesses material, non-public information. Thus a 10b5-1 Plan offers an opportunity for Covered Persons to establish a systematic program of transactions in Company Securities over periods of time that might include periods in which such transactions would otherwise be prohibited under the federal securities laws or this Policy. A variety of arrangements can be structured to meet the requirements of Rule 10b5-1. In particular, a 10b5-1 Plan can take the form of a blind trust, other trust, pre-scheduled stock option exercises and sales, pre-arranged trading instructions and other brokerage and third-party arrangements over which the Covered Person has no control once the plan takes effect. Covered Persons should note that Rule 10b5-1 only provides an affirmative defense in the event there is an insider trading lawsuit. It does not prevent someone from bringing a lawsuit.

Covered Persons who desire to implement a 10b5-1 Plan must first obtain approval of the plan by the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer). In order to be eligible for approval, the 10b5-1 Plan (a) must be established only when a Covered Person is not in possession of material, non-public information about the Company and outside of a Blackout Period; (b) must be in writing; (c) must either irrevocably set forth the future date or dates on which purchases or sales of securities are to be made and the prices at which the securities are to be purchased or sold, or provide a formula for determining the price of the securities to be purchased or sold and the date or dates on which the transactions are to be completed (provided that no aspect of the formula may permit the direct or indirect exercise of any influence over the timing or terms of the purchase or sale by the Covered Person); (d) must set forth the broker who will be responsible for effecting the transactions (or method of transaction if not through a broker); (e) may not take effect until either (i) at least ninety (90) days after the plan is established, or (ii) two business days after the Company files a quarterly or annual financial report with the SEC covering the quarter in which the plan was adopted or modified, whichever is later, but no later than one hundred and twenty (120) days after the plan is established; and (f) the Covered Person must provide written certification that they are (i) not aware of material nonpublic information about the company or its securities, and (ii) are adopting or modifying the plan in good faith and not as part of a plan or scheme to evade the prohibitions of Rule 10b-5. A Covered Person may only create one single-trade plan in any twelve (12) month period. The Compliance Department will maintain a copy of all 10b5-1 Plans.

The Covered Person must provide the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer) written notice of any proposed modification or termination of a 10b5-1 Plan. In the case of a proposed modification, such modification must be approved in writing by the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer), following consultation with outside counsel, and may not take effect until at least thirty (30) days after the modification is made. Any modification must be made in good faith, outside of a Blackout Period and at a time when the Covered Person does not possess material, non-public information.

Termination of a 10b5-1 Plan should occur only in unusual circumstances, and any proposed termination of a 10b5-1 Plan must be approved in writing by the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer). Once a 10b5-1 Plan has been terminated, the Covered Person must wait at least thirty (30) days before trading outside of a 10b5-1 Plan and one (1) year before establishing a new 10b5-1 Plan.

The foregoing provisions relating to the implementation, modification and termination of a 10b5-1 Plan also apply to any 10b5-1 Plan entered into or proposed to be entered into for the purpose of selling INNOVATE Entity Securities.

Section 16 Insider Reporting Obligations

All transactions in Company Securities, including transactions effected pursuant to a 10b5-1 Plan and transactions involving restricted stock and other equity awards granted by the Company, by directors and officers that are subject to Section 16 of the Exchange Act ("***Section 16 Insiders***") must be executed only through brokers that agree to confirm approval of the transaction pursuant to this Policy before executing the transaction. At least three (3) business days prior to executing the transaction, Section 16 Insiders shall provide written notice to, and obtain the written approval of, the Chief Financial Officer (or in the case of the Chief Financial Officer, the Chief Executive Officer) for each transaction in Company Securities that may be reportable on SEC Form 4 or Form 5. The requisite notice shall include all information necessary to accurately report the transaction on SEC Form 4 or 5 (with the exception of the final price and date of execution, which shall be confirmed by either the Section 16 Insider or the broker as soon as the transaction is executed).

In addition to transactions for the Section 16 Insider's own account, Section 16 of the Exchange Act requires Section 16 Insiders to report transactions in Company Securities in which the Section 16 Insider beneficially owns a direct or indirect "pecuniary interest" (i.e., where the Section 16 Insider has the opportunity, directly or indirectly, to profit or share in any profit from a transaction in Company Securities). Section 16 Insiders may be deemed to beneficially own Company Securities held or acquired by:

the Section 16 Insider's immediate family sharing the same household;

trusts (including living or family trusts) in which the Section 16 Insider is a settlor or has or shares investment control;

trusts in which the Section 16 Insider, or any member of his or her immediate family, is a beneficiary;

general partnerships in which the Section 16 Insider is a general partner;

limited partnerships where the Section 16 Insider is a general partner or has or shares investment control over the limited partnership's portfolio securities;

corporations where the Section 16 Insider is a controlling shareholder or has or shares investment control over the corporation's portfolio securities; and

limited liability companies in which the Section 16 Insider is a member, if structured like a general partnership, or where the Section 16 Insider has control or has or shares investment control over the limited liability company's portfolio securities, if structured like a limited partnership or corporation.

Under Section 16 of the Exchange Act, Section 16 Insiders face strict liability for effecting non-exempt purchases and sales (or sales and purchases) in Company Securities (including Company Securities deemed to be beneficially owned by Section 16 Insiders) within a six-month period that result in a "short swing profit" (whether this profit is actual or imputed). The statute compels the Section 16 Insider to disgorge all profits gained in the transactions to the Company.

All Section 16 Insiders shall execute a special power of attorney in form and substance satisfactory to the Compliance Department empowering each of the Chief Executive Officer, the Chief Financial Officer, or such other person as may be designated by the Chief Financial Officer, to execute and timely file with the SEC the required reports with respect to any transaction in Company Securities on behalf of the Section 16 Insider. Although the Compliance Department will assist Section 16 Insiders in preparing and filing the required reports with the SEC, Section 16 Insiders retain responsibility for filing the required reports under the federal securities laws.

Any person who is unsure whether they are subject to Section 16 of the Exchange Act, whether they may be deemed to beneficially own Company Securities held or acquired by members of their immediate family or trusts, partnerships, corporations or limited liability companies over which they exercise control or in which they have an interest, whether a contemplated transaction in Company Securities is reportable on Form 4 or Form 5 or whether a contemplated transaction in Company Securities may result in liability for short-swing profits should consult the Compliance Department for guidance.

Reporting of Violations

Any Covered Person who violates this Policy or any federal, state or exchange rule or law governing insider trading, including tipping, or knows of any such violation by any other Covered Person, must report the violation immediately to the Compliance Department. Upon learning of any such violation, the Compliance Department, in consultation with the Company's

legal counsel, will determine whether the Company should release any material non-public information, or whether the Company should report the violation to the SEC or other appropriate governmental authority.

Compliance with the Insider Trading Policy

The Chief Financial Officer is responsible for supervising compliance with this Policy by Covered Persons. The Chief Financial Officer may designate one or more individuals who may perform the Chief Financial Officer's duties in the event that the Chief Financial Officer is unable or unavailable to perform such duties.

As a condition to present and continued employment with the Company or any Subsidiary of the Company, as applicable, each Covered Person, shall acknowledge their receipt, understanding and compliance with, the Policy on an annual basis through (i) the use of the Company's online tracking software or (ii) in the event the online tracking software is unavailable to the Covered Person, by executing an Acknowledgement, substantially in the form attached hereto as Appendix A. In the case of a Covered Person's Immediate Family Members, the Covered Person shall make a representation that his or her Immediate Family Members are in compliance with the Policy and will continue to comply with the Policy in the future.

Potential Civil, Criminal and Disciplinary Sanctions

A. Civil and Criminal Penalties

The consequences of prohibited insider trading or tipping can be severe. Persons violating insider trading or tipping rules may be required to disgorge the profit made or the loss avoided by the trading, pay the loss suffered by the person who purchased securities from or sold securities to the insider tippee, pay civil penalties up to three times the profit made or loss avoided, pay a criminal penalty of up to $1 million, and serve a jail term of up to ten (10) years. The Company and/or the supervisors of the person violating the rules may also be required to pay major civil or criminal penalties.

B. Company Discipline

Violation of this policy or federal or state insider trading or tipping laws by any Director, Senior Officer, or Employee, or their family members, may subject the Director to removal proceedings and the Senior Officer or Employee to disciplinary action by the Company, up to and including termination for cause.

Inquiries

Please direct all inquiries regarding any of the provisions or procedures of this Policy to the Chief Financial Officer.

Exhibit 10.68

SECOND AMENDMENT TO CREDIT AGREEMENT

DATED AS OF

December _12_, 2023

AMONG

DBM GLOBAL INC. AND THE OTHER BORROWERS,

THE LENDERS,

AND

UMB BANK, N.A.,
AS ADMINISTRATIVE AGENT

BMO HARRIS BANK N.A.,
SYNDICATION AGENT

SECOND AMENDMENT TO CREDIT AGREEMENT

THIS SECOND AMENDMENT TO CREDIT AGREEMENT is dated as of December ___, 2023 (the "Effective Date"), by and among **DBM GLOBAL INC.,** a Delaware corporation ("Holdings"), the other Borrowers listed on Schedule 1.1 hereto (together with Holdings, each a "Borrower" and collectively the "Borrowers"), the **LENDERS**, which are party hereto from time to time (each a "Lender" and collectively the "Lenders") and **UMB BANK, N.A.**, a national banking association, as Letter of Credit Issuer and as Administrative Agent (the "***Administrative Agent***").

IN CONSIDERATION of the mutual covenants, conditions and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is hereby agreed that:

ARTICLE I
DEFINITIONS

When used herein, the following terms shall have the meanings specified:

1.1 Amendment. "Amendment" shall mean this Second Amendment to Credit Agreement.

1.2 Credit Agreement. "Credit Agreement" shall mean the Credit Agreement by and among the Borrowers, the several financial institutions from time to time party thereto as Lenders, and the Administrative Agent, dated as of May 27, 2021, together with all of the Schedules and Exhibits attached thereto, as amended by First Amendment to Credit Agreement dated August 2, 2022.

1.3 Other Terms. The other capitalized terms used in this Amendment shall have the definitions assigned in the Credit Agreement.

ARTICLE II
AMENDMENTS

The Credit Agreement is amended as follows:

2.1 The Credit Agreement is hereby amended to delete the stricken text (indicated textually in the same manner as the following example: ~~stricken text~~) and to add the bold, double-underlined text (indicated textually in the same manner as the following example: **underlined text**) as set forth in the Credit Agreement attached as Exhibit A hereto.

2.2 Except as expressly amended by this Amendment, all of the terms and conditions of the Credit Agreement shall remain in full force and effect and shall apply to any advance thereunder.

ARTICLE III
REPRESENTATIONS AND WARRANTIES

Each Borrower hereby represents and warrants to the Administrative Agent and the Lenders that:

3.1 Credit Agreement. All of the representations and warranties made by Borrowers in the Credit Agreement are true
or

Event of Default under the Credit Agreement has occurred and is continuing as of the date of this Amendment.

3.2 Authorization; Enforceability. The making, execution and delivery of this Amendment and performance of and compliance with the terms of the Credit Agreement, as amended have been duly authorized by all necessary corporate action and limited liability company action, as applicable, by Borrowers. This Amendment is the valid and binding obligation of each Borrower, enforceable against each Borrower in accordance with its terms.

3.3 Absence of Conflicting Obligations. The making, execution and delivery of this Amendment, and performance of and compliance with the terms of the Credit Agreement, as amended, do not violate any presently existing provision of law or the articles of incorporation, articles of organization, bylaws or operating agreement, as applicable, of any Borrower or any agreement to which any Borrower is a party or by which it is bound.

3.4 Collateral Documents. All of the Obligations, as amended by this Amendment, shall be secured by all of the Collateral Documents. The Borrowers acknowledge and agree that the Collateral Documents are fully enforceable against each Borrower party thereto strictly in accordance with their terms and the Borrowers hereby reaffirm each of the Collateral Documents and acknowledge and agree that the Liens created by the Collateral Documents are valid, effective, properly perfected and enforceable first priority Liens, subject to Permitted Liens. Each of the Borrowers hereby reaffirms the grant of all Liens it has previously granted to the Administrative Agent.

3.5 Reaffirmation of Loan Documents. Each Borrower hereby (i) confirms that it has requested the Administrative Agent and the Lenders to enter into this Amendment, (ii) acknowledges that the Administrative Agent and the Lenders would not enter into this Amendment in the absence of the reaffirmation of each of the Loan Documents and the Obligations to which it is a party and that the Administrative Agent and the Lenders are thus relying on such reaffirmation and (iii) reaffirms each of the Loan Documents and the Obligations in each and every respect, including, without limitation, the validity of any and all obligations under each of the Loan Documents and the Obligations (as defined in the Credit Agreement, as amended by this Amendment). Each Borrower acknowledges and agrees that the Loan Documents all continue in full force and effect, and the Administrative Agent and the Lenders retain all of their rights and remedies under the Loan Documents. Each Borrower acknowledges and agrees that all Loan Documents and Collateral Documents previously executed by it shall secure all amounts owed by any Borrower to any one or more of the Administrative Agent and Lenders and their respective affiliates. Each Borrower hereby acknowledges and agrees that the obligations which are secured by any Collateral Document executed by it shall include all Obligations, including, without limitation, all principal of and interest on the Notes and the Loans, as all such Obligations are amended as provided in the Credit Agreement as amended by this Amendment, and all obligations with respect to Letters of Credit and Hedging Obligations.

3.6 Governing Law; Jurisdiction; Waiver of Jury Trial. The governing law, jurisdiction and waiver of jury trial provisions contained in Article XV of the Credit Agreement are hereby incorporated by reference *mutatis mutandis.*

ARTICLE IV
MISCELLANEOUS

4.1 Continuance of Credit Agreement. Except as specifically amended by this Amendment, the Credit Agreement shall

4.2 Survival. All agreements, representations and warranties made in this Amendment or in any documents delivered pursuant to this Amendment shall survive the execution of this Amendment and the delivery of any such document.

4.3 Counterparts; Headings. This Amendment may be executed in several counterparts, each of which shall be deemed an original, but such counterparts shall together constitute but one and the same agreement. Article and Section headings in this Amendment are inserted for convenience of reference only and shall not constitute a part hereof.

4.4 Severability. Any provision of this Amendment which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions of this Amendment or affecting the validity or enforceability of such provision in any other jurisdiction.

4.5 Effectiveness. This Amendment shall be effective as of the Effective Date upon receipt by the Administrative Agent of each of the following, which are in form and substance acceptable to the Administrative Agent and executed as appropriate:

(a) this Amendment;

(b) Legal Opinion of Borrowers' counsel;

(c) copies of resolutions of each Borrower's and each Guarantor's Board of Directors (or similar governing body) authorizing the execution, delivery and performance of, as applicable, this Amendment, the Consent and Ratification and such other documents as Administrative Agent may request and the consummation of the transactions contemplated hereby and thereby, together with specimen signatures of the persons authorized to execute such documents on each Borrower's and each Guarantor's behalf, all certified in each instance by its Secretary or Assistant Secretary;

(d) receipt by Administrative Agent of the fee required under Section 2.6.6 of the Credit Agreement;

(e) receipt by Administrative Agent of a fully executed letter agreement in the form previously provided to Administrative Agent among Holdings, The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009 and Donald W. Banker regarding the Banker Trust 2023 Prepayment (as defined in the Credit Agreement), Donald W. Banker's employment transition, the aircraft lease agreement between Banker Steel Co., L.L.C. and Banker Aviation, LLC and the building lease between Banker Steel Co., L.L.C. and 2940 Fulks Street, LLC; and

(f) receipt by Administrative Agent of such additional supporting documents and materials as Administrative Agent may reasonably request.

4.6 Fees and Expenses. The Borrowers shall pay all reasonable fees and expenses of the Administrative Agent related to the execution and delivery of this Amendment and the related documents including reasonable attorneys' fees and title company expenses related thereto.

4.7 Release. Each Borrower acknowledges, confirms, and agrees that: (i) none of the Borrowers or any of their Subsidiaries or Affiliates has any claim or cause of action against the Administrative Agent, any Affiliate of the Administrative Agent, any Lender, any Affiliate of any Lender (or any of the directors, officers, employees, agents or attorneys of the foregoing), heretofore properly performed and

satisfied in a timely manner all of their obligations to the Borrowers and all of their Subsidiaries and Affiliates (if any) under the Credit Agreement and the other Loan Documents. Notwithstanding the foregoing, the Borrowers wish (and the Administrative Agent and Lenders agree) to eliminate any possibility that any past conditions, acts, omissions, events or circumstances would impair or otherwise adversely affect the Administrative Agent's or any Lender's rights, interests, security and/or remedies under the Credit Agreement and the other Loan Documents. Accordingly, for and in consideration of the agreements contained in this Amendment and other good and valuable consideration, each Borrower for itself and their Subsidiaries and Affiliates and the successors, assigns, heirs and representatives of each of the foregoing (collectively, the "Releasors") do hereby fully, finally, unconditionally and irrevocably release, waive and forever discharge the Administrative Agent, each Affiliate of the Administrative Agent, the Lenders and each Affiliate of any Lender, together with their respective directors, officers, employees, agents, attorneys successors and assigns (collectively, the "Released Parties") from: (x) any and all liabilities, obligations, duties, responsibilities, promises or indebtedness of any kind of the Released Parties to the Releasors or any of them (except for such obligations to be performed by the Released Parties after the date of this Amendment, as expressly stated in this Amendment and the other Loan Documents) and (y) all claims, demands, disputes, offsets, causes of action (whether at law or equity), suits or defenses of any kind whatsoever (if any), which the Releasors or any of them had from the beginning of the world, now has or might hereafter have against the Released Parties or any of them, in either case of clauses (x) or (y) on account of any condition, act, omission, event, contract, liability, obligation, indebtedness, claim, cause of action, defense, circumstance or matter of any kind that existed, arose or occurred at any time from the beginning of the world to the execution of this Amendment. For purposes of the release contained in this Section 4.7, any reference to any Releasor shall mean and include, as applicable, such Person's successors and assigns, including, without limitation, any receiver, trustee or debtor-in-possession, acting on behalf of such Person. As to each and every claim released hereunder, each Borrower hereby represents that it has received the advice of legal counsel with regard to the releases contained herein and agrees to waive, to the extent permitted by law, any common law or statutory rule or principle that could affect the validity or scope or any other aspect of such release.

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Credit Agreement as of the day and year first written above.

ADMINISTRATIVE AGENT AND LENDER:

UMB BANK, N.A., as a Lender and as Administrative Agent

By: */s/ Kyle McMillian*
Name: Kyle McMillian
Title: Senior Vice President

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Credit Agreement as of the day and year first written above.

SYNDICATION AGENT AND LENDER:

BMO BANK N.A., as a Lender and as Syndication Agent

By: */s/ Nick Irving*
Name: Nick Irving
Title: VP

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Credit Agreement as of the day and year first written above.

LENDER:

ARIZONA BANK & TRUST, as Lender

By: */s/ Troy R. Norris*
Name: Troy R. Norris
Title: SVP

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Credit Agreement as of the day and year first written above.

LENDER:

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as a Lender

By: */s/ Denis Dotson*
Name: Denis Dotson
Title: Commercial Portfolio Manager, AVP

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Credit Agreement as of the day and year first written above.

LENDER:

ACADEMY BANK, as a Lender

By: */s/ Scott Archuletta*
Name: Scott Archuletta
Title: Vice President

IN WITNESS WHEREOF, the parties hereto have executed this Second Amendment to Credit Agreement as of the day and year first written above.

BORROWERS:

AITKEN MANUFACTURING INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President, Chief Financial Officer, Secretary and Treasurer

DBM GLOBAL INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President, Chief Financial Officer, Assistant Secretary and Treasurer

DBM VIRCON SERVICES (USA) INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Chairman, President, Secretary and Treasurer

GRAYWOLF INDUSTRIAL, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

GRAYWOLF INTEGRATED CONSTRUCTION COMPANY

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

SCHUFF STEEL MANAGEMENT COMPANY - SOUTHWEST, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President, Chief Financial Officer, Secretary, and Treasurer

SCHUFF STEEL COMPANY

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President, Chief Financial Officer, Secretary and Treasurer

MILCO NATIONAL CONSTRUCTORS, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

GRAYWOLF INTEGRATED CONSTRUCTION COMPANY - SOUTHEAST, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

BANKER STEEL CO., L.L.C.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

BANKER STEEL HOLDCO LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Chief Financial Officer and Treasurer

DERR AND ISBELL CONSTRUCTION, LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

INNOVATIVE ENGINEERING SOLUTIONS LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

LYNCHBURG FREIGHT & SPECIALTY LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

MEMCO LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

NYC CONSTRUCTORS, LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

NYCC CONSTRUCTION SERVICES, LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

US CONSTRUCTION SERVICES INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

US ERECTORS LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President and Treasurer

CONSENT OF GUARANTORS

Each of the undersigned Guarantors (a) is a party to the Guaranty dated May 27, 2021 and executed by the Guarantors in favor of Administrative Agent and is also a party to certain other Loan Documents, (b) is not a party to the foregoing Second Amendment to Credit Agreement, (b) consents to the foregoing Second Amendment to Credit Agreement, and (c) reaffirms such Guaranty and each of the Loan Documents to which it is a party and the Obligations in each and every respect, including, without limitation, the validity of any and all obligations under each of the Loan Documents and the Obligations (as defined in the Credit Agreement, as amended by the foregoing Second Amendment to Credit Agreement). Each of the Guarantors agrees that all of the Obligations, as amended by the foregoing Second Amendment to Credit Agreement, shall be secured by all of the Collateral Documents to which such Guarantor is a party. Each Guarantor acknowledges and agrees that all Loan Documents and Collateral Documents previously executed by it shall secure all amounts owed by any Borrower to any one or more of the Administrative Agent and Lenders and their respective affiliates. Each Guarantor hereby acknowledges and agrees that the obligations which are secured by any Collateral Document executed by it shall include all Obligations, including, without limitation, all principal of and interest on the Notes and the Loans, as all such Obligations are amended as provided in the Credit Agreement as amended by the foregoing Second Amendment to Credit Agreement, and all obligations with respect to Letters of Credit and Hedging Obligations. The Guarantors acknowledge and agree that the Collateral Documents to which such Guarantors are a party are fully enforceable against each Guarantor party thereto strictly in accordance with their terms and the Guarantors hereby reaffirm each of the Collateral Documents and acknowledge and agree that the Liens created by the Collateral Documents are valid, effective, properly perfected and enforceable first priority Liens, subject to Permitted Liens. Each of the Guarantors hereby reaffirms the grant of all Liens it has previously granted to the Administrative Agent.

ADDISON STRUCTURAL SERVICES, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Chairman, President, Secretary and Treasurer

CB-HORN HOLDINGS, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

DBM GLOBAL HOLDINGS INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Chairman, President, Secretary and Treasurer

DBM GLOBAL - NORTH AMERICA INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Chairman, President, Secretary and Treasurer

INNOVATIVE STRUCTURAL SYSTEMS INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Chairman, President, Secretary and Treasurer

M. INDUSTRIAL MECHANICAL, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

MIDWEST ENVIRONMENTAL, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

ON-TIME STEEL MANAGEMENT HOLDING, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President, Chief Financial Officer, Secretary, and Treasurer

PDC SERVICES (USA) INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Chairman, President, Secretary, and Treasurer

QUINCY JOIST COMPANY

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President, Chief Financial Officer, Secretary, and Treasurer

SCHUFF PREMIER SERVICES LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Manager

SCHUFF STEEL - ATLANTIC, LLC

By: */s/ Michael R. Hill*
Michael R. Hill, Manager

TITAN FABRICATORS, INC.

By: */s/ Michael R. Hill*
Michael R. Hill, Vice President

SCHEDULE 1.1

BORROWERS

ENTITY	JURISDICTION INCORPORATED/ORGANIZED
DBM Global Inc.	Delaware
GrayWolf Industrial, Inc.	Delaware
Schuff Steel Management Company – Southwest, Inc.	Delaware
Schuff Steel Company	Delaware
Aitken Manufacturing Inc.	Delaware
DBM Vircon Services (USA) Inc.	Arizona
GrayWolf Integrated Construction Company	Delaware
Milco National Constructors, Inc.	Delaware
GrayWolf Integrated Construction Company-Southeast, Inc.	Georgia
Banker Steel Holdco LLC	Delaware
Banker Steel Co., L.L.C.	Delaware
US Erectors LLC	Delaware
NYC Constructors, LLC	Delaware
Derr and Isbell Construction, LLC	Texas
Memco LLC	Delaware
Lynchburg Freight & Specialty LLC	Delaware
Innovative Engineering Solutions LLC	Delaware
US Construction Services Inc.	Delaware
NYCC Construction Services, LLC	Delaware

EXHIBIT A

Amended Credit Agreement

See Attached

Exhibit 10.68

CREDIT AGREEMENT

DATED AS OF

May 27, 2021

AMONG

DBM GLOBAL INC. AND THE OTHER BORROWERS,

THE LENDERS,

AND

UMB BANK, N.A.,

AS ADMINISTRATIVE AGENT

BMO HARRIS BANK N.A.,

AS SYNDICATION AGENT

TABLE OF CONTENTS

TABLE OF CONTENTS
(continued)

TABLE OF CONTENTS
(continued)

Page

CREDIT AGREEMENT

This Credit Agreement (the "Agreement"), dated as of May 27, 2021, is by and among **DBM GLOBAL INC.,** a Delaware corporation ("Holdings"), the other Borrowers listed on Schedule 1.1 hereto (together with Holdings, each a "Borrower" and collectively the "Borrowers"), the **LENDERS**, which are party hereto from time to time (each a "Lender" and collectively the "Lenders") and **UMB BANK, N.A.**, a national banking association, as Letter of Credit Issuer and as Administrative Agent. The parties hereto agree as follows:

PRELIMINARY STATEMENTS:

(1) Contemporaneously with the making of the initial disbursement of proceeds of the Loans, the Initial Borrowers will consummate the Banker Steel Acquisition and the Banker Steel Borrowers will automatically be joined hereto as provided in Section 9.20.

(2) The Borrowers have requested that the Lenders make the Loans to the Borrowers to pay existing indebtedness, for the Banker Steel Acquisition and for working capital.

(3) The Lenders are willing to make the Loans, subject to and upon the terms and conditions set forth herein, and in reliance on the terms and provisions of Section 9.20.

ARTICLE I

DEFINITIONS

1.1 Definitions.

As used in this Agreement:

"Acquisition" means any transaction, or any series of related transactions, consummated on or after the date of this Agreement, by which a Borrower or any of its Subsidiaries (i) acquires any going-concern business or all or substantially all of the assets of any firm, corporation or limited liability company, or division thereof, whether through purchase of assets, merger or otherwise or (ii) directly or indirectly acquires (in one transaction or as the most recent transaction in a series of transactions) at least a majority (in number of votes) of the securities of a corporation which have ordinary voting power for the election of directors (other than securities having such power only by reason of the happening of a contingency) or a majority (by percentage or voting power) of the outstanding ownership interests of a partnership or limited liability company.

"Administrative Agent" means UMB Bank, N.A., in its capacity as contractual representative of the Lenders pursuant to Article X, and not in its individual capacity as a Lender.

"Advance" means a borrowing hereunder of Revolving Loans or Term Loans.

"Affected Lender" is defined in Section 2.15.

"Affiliate(s)" of any Person means any other Person directly or indirectly controlling, controlled by or under common control with such Person, including, without limitation, such Person's Subsidiaries. A Person shall be deemed to control another Person if the controlling Person owns 10% or more of any class of Equity Interests of the controlled Person or possesses, directly or indirectly, the power to direct or cause the direction of the management or policies of the controlled Person, whether through ownership, by contract or otherwise.

"Agreement" means this Credit Agreement, as it may be amended or modified and in effect from time to time.

"Anti-Corruption Laws" means all laws, rules, and regulations of any jurisdiction applicable to a Borrower or its Subsidiaries from time to time concerning or relating to bribery or corruption.

"Authorized Officer" means any of the President or Chief Financial Officer of Holdings, acting singly.

"Available Aggregate Revolving Commitment" means, at any time, the Revolving Commitments then in effect *minus* the Revolving Exposures at such time.

"Banker Steel" means Banker Steel Holdco LLC.

"Banker Steel Acquisition" means the acquisition of Banker Steel and its subsidiaries on terms previously disclosed to the Lenders.

"Banker Steel Acquisition Documents" means, collectively, (a) the Banker Steel Purchase Agreement, (b) the other documents, instruments and agreements relating to the Baker Steel Acquisition.

"Banker Steel Borrowers" means the Borrowers identified as Banker Steel Borrowers on Schedule 1.1.

"Banker Steel Purchase Agreement" means the Membership Interest Purchase Agreement dated March 12, 2021 among Bridge Fabrication Banker Holdings LLC, The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009, Chesley F. McPhatter, III, and Richard Plant, as the sellers, Bridge Fabrication Banker Holdings LLC, as the sellers' representative, and Holdings, as the purchaser.

"Banker Trust 2023 Prepayment" means the payment in full, on or before December 31, 2023, of the Unsecured Subordinated Promissory Note by Holdings and Banker Steel Co., L.L.C. in favor of The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009, which note is dated May 27, 2021 and in the original principal amount of $19,575,810.40.

"Beneficial Ownership Certification" means a certification regarding beneficial ownership as required by the Beneficial Ownership Regulation.

"Beneficial Ownership Regulation" means 31 C.F.R. § 1010.230.

"Borrower" and "Borrowers" shall have the meaning ascribed to them in the opening paragraph of this Agreement and shall include any other parties who may become Borrowers hereunder by joinder or otherwise.

"Borrower Agent" is defined in Section 9.15.

"Borrowing Date" means a date on which an Advance is made or a Facility Letter of Credit is issued hereunder.

"Borrowing Notice" is defined in Section 2.4.

"Business Day" means a day (other than a Saturday or Sunday) on which banks generally are open in Phoenix, Arizona for the conduct of substantially all of their commercial lending activities and interbank wire transfers can be made on the Fedwire system.

"Capital Expenditures" means, without duplication, any expenditures for any purchase or other acquisition of any asset which would be classified as a fixed or capital asset on a consolidated balance sheet of Holdings and its Subsidiaries prepared in accordance with GAAP.

"Cash Management Services" means any banking services that are provided (i) to a Borrower or any Subsidiary by a Person that is the Administrative Agent, the Letter of Credit Issuer or any other Lender (or any Affiliate of any of the foregoing) at the time such banking service is entered into, or (ii) to a Borrower or any Subsidiary by a Person at the time such Person becomes the Administrative Agent, the Letter of Credit Issuer or any other Lender (or any Affiliate of any of the foregoing), including without limitation: (a) credit cards, (b) credit card processing services, (c) debit cards, (d) purchase cards, (e) stored value cards, (f) freight payable transactions, (g) automated clearing house or wire transfer services, or (h) treasury management, including controlled disbursement, consolidated account, lockbox, overdraft, return items, sweep and interstate depository network services.

"Change in Control" means (a) Holdings shall cease to own directly or indirectly, free and clear of all Liens or other encumbrances, 100% of the outstanding voting Equity Interests of each other Borrower, each Guarantor and each Foreign Subsidiary; or (b) HC2 Holdings shall cease to own, directly or indirectly, free and clear of Liens and other encumbrances, at least 51% of the outstanding voting Equity Interests of Holdings, or (c) the acquisition, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the SEC thereunder as in effect on the date hereof) of Equity Interests representing more than 20% of the aggregate ordinary voting power represented by the issued and outstanding Equity Interests of HC2 Holdings, other than any such Person or group holding more than 20% of such voting power on the date hereof.

"Change in Law" means the adoption of or change in any law, governmental or quasi- governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) or in the interpretation, promulgation, implementation or administration thereof by any Governmental or quasi-Governmental Authority, central bank or comparable agency charged with the interpretation or administration thereof, including, notwithstanding the foregoing, all requests, rules, guidelines or directives (x) in connection with the Dodd-Frank Wall Street Reform and Consumer Protection Act or (y) promulgated by the Bank for

International Settlements, the Basel Committee on Banking Supervision (or any successor or similar authority) or the United States financial regulatory authorities, in each case of clauses (x) and (y), regardless of the date enacted, adopted, issued, promulgated or implemented, or compliance by any Lender or applicable Lending Installation or the Letter of Credit Issuer with any request or directive (whether or not having the force of law) of any such authority, central bank or comparable agency.

"Code" means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time.

"Collateral" means any and all Property and proceeds thereof in which a security interest or Lien is granted or is required to be granted by any Borrower or Guarantor or any Subsidiaries of Holdings to secure all or any portion of the Obligations. Notwithstanding anything herein or in any other Loan Document to the contrary, except as expressly stated below in this definition of "Collateral," in no event shall the Collateral be deemed to include (a) any of the outstanding equity interests in a Foreign Subsidiary (i) in excess of 65% of the voting power of all classes of equity interests of such Foreign Subsidiary entitled to vote in the election of directors or other similar body of such Foreign Subsidiary, or (ii) to the extent that the pledge thereof is prohibited by the laws of the jurisdiction of such Foreign Subsidiary's organization; (b) any equity interest in any Foreign Subsidiary that is not a first-tier Subsidiary of any one or more Borrowers or Guarantors; (c) any lease, license, contract, property rights or agreement to which a Borrower or a Guarantor is a party or any such Borrower's or Guarantor's rights or interests thereunder, if, and for so long as and to the extent that, the grant of the security interest would constitute or result in (i) the abandonment, invalidation or unenforceability of any material right, title or interest of such Borrower or Guarantor therein, or (ii) a breach or termination pursuant to the terms of, or a default under, any such lease, license, contract, property rights or agreement (other than to the extent that any item referenced in the foregoing clause (i) or (ii) would be rendered ineffective or would not occur pursuant to Section 9-406, 9-407, 9-408 or 9-409 of the applicable Uniform Commercial Code (or any successor provision or provisions), any other applicable law or principles of equity), provided, however, that the security interest (x) shall attach immediately when the condition causing the foregoing clause (i) or (ii) to apply is remedied, (y) shall attach immediately to any severable term of such lease, license, contract, property rights or agreement to the extent that such attachment does not result in any of the consequences specified in (i) or (ii) above, and (z) shall attach immediately to any such lease, license, contract, property rights or agreement to which the account debtor or such Borrower's or Guarantor's counterparty has consented to such attachment; (d) any equity interest acquired after the date hereof that is an equity interest in any entity other than a Subsidiary of any Borrower or Guarantor, if (i) the terms of the organizational documents of the issuer of such equity interests do not permit the grant of the security interest in such equity interests by the owner thereof and the applicable Borrower or Guarantor, after employing commercially reasonable efforts, has been unable to obtain any approval or consent to the creation of the security interest therein that is required under such organizational documents, (ii) such acquisition is permitted under this Agreement, and (iii) Required Lenders have consented to such organizational documents; and (e) any application to register any trademark or service mark prior to the filing under applicable law of a certified statement of use (or the equivalent) for such trademark or service mark to the extent the creation of a security interest therein or the grant of a mortgage thereon would void or invalidate such trademark or service mark. Notwithstanding that as of the Effective Date Collateral does not

include any of the outstanding equity interests in a Foreign Subsidiary in excess of 65% of the voting power of all classes of equity interests of such Foreign Subsidiary entitled to vote in the election of directors or other similar body of such Foreign Subsidiary, Administrative Agent may require that such equity interests in one or more first-tier Foreign Subsidiaries of any one or more Borrowers or Guarantors be added as collateral to the extent that the pledge thereof is not prohibited by the laws of the jurisdiction of such Foreign Subsidiary's organization and the pledge thereof will not result in adverse tax consequences to the Borrower.

"Collateral Documents" means, collectively, the Security Agreements, and all other agreements, instruments and documents that are intended to create, perfect or evidence Liens upon the Collateral as security for payment of the Obligations, including without limitation, all other security agreements, pledge agreements, financing statements, mortgages, assignments and deeds of trust, whether now, or hereafter executed by one or more of Borrowers, Guarantors or any Subsidiaries of Holdings and delivered to the Administrative Agent.

"Collateral Shortfall Amount" is defined in Section 8.1(a).

"Commitment" means a Term Loan Commitment or a Revolving Commitment.

"Commodity Exchange Act" means the Commodity Exchange Act (7 U.S.C. § 1 et seq.), as amended from time to time, and any successor statute.

"Contingent Obligation" of a Person means any agreement, undertaking or arrangement by which such Person assumes, guarantees, endorses, contingently agrees to purchase or provide funds for the payment of, or otherwise becomes or is contingently liable upon, the obligation or liability of any other Person, or agrees to maintain the net worth or working capital or other financial condition of any other Person, or otherwise assures any creditor of such other Person against loss, including, without limitation, any comfort letter, operating agreement, take-or-pay contract or the obligations of any such Person as general partner of a partnership with respect to the liabilities of the partnership.

"Control Agreement" means an agreement, in form and substance reasonably satisfactory to the Administrative Agent, among a Borrower or any Subsidiary, a banking institution holding such Person's funds, and the Administrative Agent with respect to collection and control of all deposits and balances held in an account maintained by such Person with such banking institution.

"Credit Extension" means the making of an Advance or the issuance of a Facility Letter of Credit hereunder.

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

"Default" means an event which but for the lapse of time or the giving of notice, or both, would constitute an Event of Default.

"Defaulting Lender" means, subject to Section 2.17(b), any Lender that (a) has failed to (i) fund all or any portion of its Loans within three (3) Business Days after the date such Loans were required to be funded hereunder unless such Lender notifies the Administrative Agent and Holdings in writing that such failure is the result of such Lender's determination that one or more conditions precedent to funding (each of which conditions precedent, together with any applicable default, shall be specifically identified in such writing) has not been satisfied or waived, or (ii) pay to the Administrative Agent or any other Lender any other amount required to be paid by it hereunder within three (3) Business Days after the date when due, (b) has notified Holdings and the Administrative Agent in writing that it does not intend to comply with its funding obligations hereunder, or has made a public statement to that effect (unless such writing or public statement relates to such Lender's obligation to fund a Loan hereunder and states that such position is based on such Lender's determination that a condition precedent to funding (which condition precedent, together with any applicable default, shall be specifically identified in such writing or public statement) cannot be satisfied), (c) has failed, within three (3) Business Days after written request by the Administrative Agent or Holdings, to confirm in writing to the Administrative Agent and Holdings that it will comply with its prospective funding obligations hereunder (*provided* that such Lender shall cease to be a Defaulting Lender pursuant to this clause (c) upon receipt of such written confirmation by the Administrative Agent and Holdings), or (d) has, or has a direct or indirect parent company that has, (i) become the subject of a proceeding under any Debtor Relief Law, (ii) had appointed for it a receiver, custodian, conservator, trustee, administrator, assignee for the benefit of creditors or similar Person charged with reorganization or liquidation of its business or assets (other than an Undisclosed Administration), including the Federal Deposit Insurance Corporation or any other state or federal regulatory authority acting in such a capacity; *provided* that a Lender shall not be a Defaulting Lender solely by virtue of the ownership or acquisition of any equity interest in that Lender or any direct or indirect parent company thereof by a Governmental Authority so long as such ownership interest does not result in or provide such Lender with immunity from the jurisdiction of courts within the United States or from the enforcement of judgments or writs of attachment on its assets or permit such Lender (or such Governmental Authority) to reject, repudiate, disavow or disaffirm any contracts or agreements made with such Lender. Any determination by the Administrative Agent that a Lender is a Defaulting Lender under any one or more of clauses (a) through (d) above shall be conclusive and binding absent manifest error, and such Lender shall be deemed to be a Defaulting Lender (subject to Section 2.17(b)) upon delivery of written notice of such determination to Holdings and each Lender.

"Default Rate" has the meaning provided in Section 2.5.2

"Deposits" is defined in Section 11.1.

"Disposition" means a sale, transfer or other disposition of Property.

"Dollar" and "$" means the lawful currency of the United States of America.

"Dollar Amount" means, on any date of determination with respect to any amount, such amount in Dollars as determined by the Administrative Agent.

"Domestic Subsidiary" means any Subsidiary other than a Foreign Subsidiary.

"EBITDA" means, for any period, Net Income for such period plus (a) without duplication and to the extent deducted in determining Net Income for such period, the sum of (i) Interest Expense for such period, (ii) income tax expense for such period, (iii) all amounts attributable to depreciation and amortization expense for such period, and (iv) to the extent approved by Administrative Agent, non-cash and non-recurring expenses, minus (b) without duplication and to the extent included in Net Income, (i) any cash payments made during such period in respect of non-cash charges taken in a prior period and (ii) any extraordinary gains and any non-cash items of income for such period, all calculated for Holdings and its Subsidiaries on a consolidated basis in accordance with GAAP. Notwithstanding the foregoing, for purposes of this Agreement, the EBITDA of Holdings and its Subsidiaries shall be deemed to be the following amounts for the periods set forth below:

Period		EBITDA Amount
Fiscal Quarter Ending	September 26, 2020	$29,046,000.00
Fiscal Quarter Ending	January 2, 2021	$32,952,000.00
Fiscal Quarter Ending	April 3, 2021	$17,959,000.00

"ECP" means an "eligible contract participant" as defined in Section 1(a)(18) of the Commodity Exchange Act or any regulations promulgated thereunder and the applicable rules issued by the Commodity Futures Trading Commission and/or the SEC.

"Effective Date" means the date on which the conditions specified in Section 4.1 are satisfied.

"Eligible Assignee" means any Person except a natural Person (or holding company, investment vehicle or trust for, or owned and operated for the primary benefit of a natural Person), a Borrower, any of a Borrower's Affiliates or Subsidiaries or any Defaulting Lender or any of its Subsidiaries.

"Environmental Indemnification Agreement" means the Environmental Indemnification Agreement dated the date hereof and executed by Borrowers and Guarantors in favor of Administrative Agent, as it may be amended, restated otherwise modified from time to time.

"Environmental Laws" means any and all federal, state, local and foreign statutes, laws, judicial decisions, regulations, ordinances, rules, judgments, orders, decrees, plans, injunctions, permits, concessions, grants, franchises, licenses, agreements and other governmental restrictions relating to (i) the protection of the environment, (ii) personal injury or property damage relating to the release or discharge of Hazardous Materials, (iii) emissions, discharges or releases of pollutants, contaminants, hazardous substances or wastes into surface water, groundwater, land or air, or (iv) the manufacture, processing, distribution, use, treatment, storage, disposal, transport or handling of pollutants, contaminants, hazardous substances or wastes or the clean-up or other remediation thereof.

"Equity Interests" means all shares, interests or other equivalents, however designated, of or in a corporation, limited liability company, or partnership, whether or not voting, including but not limited to common stock, member interests, partnership interests, warrants, preferred stock, convertible debentures, and all agreements, instruments and documents convertible, in whole or in part, into any one or more or all of the foregoing.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and any rule or regulation issued thereunder.

"ERISA Affiliate" means any trade or business (whether or not incorporated) that, together with a Borrower or Guarantor, is treated as a single employer under Section 414(b) or (c) of the Code or, solely for purposes of Section 302 of ERISA and Section 412 of the Code, is treated as a single employer under Section 414 of the Code.

"ERISA Event" means (a) any "reportable event", as defined in Section 4043 of ERISA or the regulations issued thereunder with respect to a Plan (other than an event for which the 30-day notice period is waived); (b) the failure with respect to any Plan to satisfy the "minimum funding standard" (as defined in Section 412 of the Code or Section 302 of ERISA), whether or not waived; (c) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA of an application for a waiver of the minimum funding standard with respect to any Plan; (d) the incurrence by a Borrower, a Guarantor or any ERISA Affiliate of any liability under Title IV of ERISA with respect to the termination of any Plan; (e) the receipt by a Borrower, a Guarantor or any ERISA Affiliate from the PBGC or a plan administrator of any notice relating to an intention to terminate any Plan or Plans or to appoint a trustee to administer any Plan; (f) the incurrence by a Borrower, a Guarantor or any ERISA Affiliate of any liability with respect to the withdrawal or partial withdrawal of a Borrower, a Guarantor or any ERISA Affiliate from any Plan or Multiemployer Plan; or (g) the receipt by a Borrower, a Guarantor or any ERISA Affiliate of any notice, or the receipt by any Multiemployer Plan from a Borrower, a Guarantor or any ERISA Affiliate of any notice, concerning the imposition upon a Borrower, a Guarantor or any ERISA Affiliate of withdrawal liability under Section 4201 of ERISA or a determination that a Multiemployer Plan is, or is expected to be, insolvent, within the meaning of Title IV of ERISA.

"Event of Default" is defined in Article VII.

"Excluded Swap Obligation" means, with respect to any Borrower or Guarantor, any Swap Obligation if, and to the extent that, all or a portion of the guarantee of such Borrower or Guarantor of, or the grant by such Borrower or Guarantor of a security interest to secure, such Swap Obligation (or any guarantee thereof) is or becomes illegal under the Commodity Exchange Act or any rule, regulation or order of the Commodity Futures Trading Commission (or the application or official interpretation of any thereof) by virtue of such Borrower or Guarantor's failure for any reason to constitute an ECP at the time the guarantee of such Borrower or Guarantor or the grant of such security interest becomes or would become effective with respect to such Swap Obligation. If a Swap Obligation arises under a master agreement governing more than one swap, such exclusion shall apply only to the portion of such Swap Obligation that is attributable to swaps for which such guarantee or security interest is or becomes illegal.

"Excluded Taxes" means, in the case of each Lender or applicable Lending Installation, the Letter of Credit Issuer, and the Administrative Agent, (i) Taxes imposed on its overall net income, franchise Taxes, and branch profits Taxes imposed on it, by the respective jurisdiction under the laws of which such Lender, the Letter of Credit Issuer or the Administrative Agent is incorporated or is organized or in which its principal executive office is located or, in the case of a Lender, in which such Lender's applicable Lending Installation is located, (ii) in the case of a Non-U.S. Lender, any U.S. federal withholding Tax that is imposed on amounts payable to such Non-U.S. Lender pursuant to the laws in effect at the time such Non-U.S. Lender becomes a party to this Agreement or designates a new Lending Installation, except in each case to the extent that, pursuant to Section 3.3(a), amounts with respect to such Taxes were payable either to such Lender's assignor immediately before such Lender became a party hereto or to such Lender immediately before it changed its Lending Installation, or is attributable to the Non-U.S. Lender's failure to comply with Section 3.3(f), and (iii) any U.S. federal withholding Taxes imposed by FATCA.

"Facility Letter of Credit" is defined in Section 2.14(a)

"Facility Letter of Credit Application" is defined in Section 2.14(c).

"Facility Letter of Credit Collateral Account" is defined in Section 2.14(k).

"FATCA" means Sections 1471 through 1474 of the Code, as of the date of this Agreement (or any amended or successor version that is substantively comparable and not materially more onerous to comply with), any current or future regulations or official interpretations thereof, any agreements entered into pursuant to Section 1471(b)(1) of the Code and any fiscal or regulatory legislation, rules or practices adopted pursuant to any intergovernmental agreement, treaty or convention among Governmental Authorities entered into in connection with the implementation of the foregoing.

"Federal Funds Effective Rate" means, for any day, the rate calculated by the Federal Reserve Bank of New York based on such day's federal funds transactions by depositary institutions, as determined in such manner as shall be set forth on the Federal Reserve Bank of New York's Website from time to time, and published on the next succeeding Business Day by the Federal Reserve Bank of New York as the effective federal funds rate, provided that, if the Federal Funds Effective Rate as so determined would be less than 1.0%, such rate shall be deemed to be 1.0% for the purposes of this Agreement.

"Finance Lease" of a Person means any lease of Property by such Person as lessee which would be classified and accounted for as a finance lease on a balance sheet of such Person prepared in accordance with GAAP.

"Finance Lease Obligations" of a Person means the amount of the obligations of such Person under Finance Leases which would be shown as a liability on a balance sheet of such Person prepared in accordance with GAAP.

"First Amendment Date" means August 2, 2022.

"First Amendment Increase" means the $25,000,000.00 increase in the Revolving Commitment effective on the First Amendment Date.

"Fixed Charges" means, for any period, without duplication, the sum of (a) cash Interest Expense, (b) scheduled principal payments on Indebtedness, (c) other payments made on Subordinated Indebtedness, and (d) Finance Lease payments, all calculated for Holdings and its Subsidiaries on a consolidated basis in accordance with GAAP**; provided that the Banker Trust 2023 Prepayment shall not be included in calculating Fixed Charges**.

"Fixed Charge Coverage Ratio" means, for any period, the ratio of (a) EBITDA *minus* Unfinanced Capital Expenditures *minus* expense for taxes paid in cash (including any amount paid under the Borrowers' tax sharing arrangement with HC2 Holdings), *minus* Restricted Payments paid in cash to (b) Fixed Charges, all calculated for the Borrower and its Subsidiaries on a consolidated basis in accordance with GAAP.

"Foreign Subsidiary" means each Subsidiary of a Borrower that is organized under the laws of any jurisdiction other than the United States or any state thereof or the District of Columbia and that is conducting the majority of its business outside of the United States.

"Fronting Exposure" means, at any time there is a Defaulting Lender, with respect to the Letter of Credit Issuer, such Defaulting Lender's ratable share of the Letter of Credit Obligations with respect to Facility Letters of Credit issued by the Letter of Credit Issuer other than Letter of Credit Obligations as to which such Defaulting Lender's participation obligation has been reallocated to other Lenders or cash collateralized in accordance with the terms hereof.

"GAAP" means generally accepted accounting principles as in effect from time to time in the United States, applied in a manner consistent with that used in preparing the financial statements referred to in Section 5.4, subject at all times to Section 9.8.

"Governmental Authority" means the government of the United States of America or any other nation, or of any political subdivision thereof, whether state or local, and any agency, authority, instrumentality, regulatory body, court, central bank or other entity exercising executive, legislative, judicial, taxing, regulatory or administrative powers or functions of or pertaining to government (including, without limitation, any supra-national bodies such as the European Union or the European Central Bank) and any group or body charged with setting financial accounting or regulatory capital rules or standards (including, without limitation, the Financial Accounting Standards Board, the Bank for International Settlements or the Basel Committee on Banking Supervisory Practices or any successor or similar authority to any of the foregoing).

"Governmental Obligations" means noncallable direct general obligations of the United States of America or obligations the payment of principal of and interest on which is unconditionally guaranteed by the United States of America.

 Specified Properties" is defined in Section 6.24(a)

"Guarantor" means any guarantor which agrees to guaranty all or any portion of the Obligations of one or more Borrowers and their respective successors and assigns, including but not limited to the parties listed on Schedule 1.2 to this Agreement.

"Guaranty" means any guaranty executed by a Borrower or Guarantor in favor of the Administrative Agent, for the ratable benefit of the Lenders, whether now existing or made in the future.

"Hazardous Material" means any explosive or radioactive substances or wastes, any hazardous or toxic substances, wastes or other pollutants, including petroleum or petroleum distillates, asbestos or asbestos containing materials, polychlorinated biphenyls, radon gas, infectious or medical wastes, per- and polyfluoroalkyl substances, all "Hazardous Substances" as defined by the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC 9601 et seq. ("CERCLA"), and any other substances or wastes of any nature regulated pursuant to any Environmental Law.

"HC2 Holdings" means HC2 Holdings, Inc., a Delaware corporation.

"Hedging Agreement" means any interest rate, currency or commodity swap agreement, cap agreement or collar agreement, and any other agreement or arrangement designed to protect a Person against fluctuations in interest rates, currency exchange rates or commodity prices.

"Hedging Obligation" means, with respect to any Person, any liability of such Person under any Hedging Agreement. The amount of any Person's obligation in respect of any Hedging Obligation will be deemed to be the incremental obligation that would be reflected in the financial statements of such Person in accordance with GAAP.

"Highest Lawful Rate" means, on any day, the maximum non-usurious rate of interest permitted for that day by applicable federal or state law stated as a rate per annum.

"Indebtedness" of a Person means such Person's (i) obligations for borrowed money (including the Obligations under this Agreement and the other Loan Documents), (ii) obligations representing the deferred purchase price of Property or services (other than accounts payable arising in the ordinary course of such Person's business payable on terms customary in the trade), (iii) obligations, whether or not assumed, secured by Liens or payable out of the proceeds or production from Property now or hereafter owned or acquired by such Person, (iv) obligations which are evidenced by notes, acceptances, or other instruments, (v) obligations to purchase securities or other Property arising out of or in connection with the sale of the same or substantially similar securities or Property, (vi) Finance Lease Obligations, (vii) obligations as an account party with respect to standby and commercial Letters of Credit, (viii) Contingent Obligations of such Person, (ix) any other obligation for borrowed money or other financial accommodation which in accordance with GAAP would be shown as a liability on the consolidated balance sheet of such Person, and (x) guaranties of any of the foregoing.

"Indemnified Taxes" means Taxes imposed on or with respect to any payment made by or on account of any obligation of any Borrower under any Loan Document, other than Excluded Taxes and Other Taxes.

"Initial Borrowers" means the Borrowers identified as Initial Borrowers on Schedule 1.1.

"Interest Expense" means, with reference to any period, total interest expense (including that attributable to Finance Lease Obligations) of Holdings and its Subsidiaries for such period with respect to all outstanding Indebtedness of Holdings and its Subsidiaries (including all commissions, discounts and other fees and charges owed with respect to letters of credit and bankers' acceptances and net costs under Hedging Agreements in respect of interest rates, to the extent such net costs are allocable to such period in accordance with GAAP), calculated for Holdings and its Subsidiaries on a consolidated basis for such period in accordance with GAAP.

"Investment" of a Person means (a) any loan, advance (other than commission, travel and similar advances to officers and employees made in the ordinary course of business), extension of credit (other than accounts receivable arising in the ordinary course of business on terms customary in the trade) or contribution of capital by such Person; (b) stocks, bonds, mutual funds, partnership interests, notes, debentures or other securities (including warrants or options to purchase securities) or other equity interests owned by such Person; (c) any deposit accounts and certificate of deposit owned by such Person; and (d) structured notes, derivative financial instruments and other similar instruments or contracts owned by such Person.

"Lenders" means the lending institutions listed on the signature pages of this Agreement and their respective successors and assigns.

"Lending Installation" means, with respect to a Lender, the Letter of Credit Issuer or the Administrative Agent, the office, branch, subsidiary or affiliate of such Lender, the Letter of Credit Issuer or the Administrative Agent listed on the signature pages hereof or designated pursuant to Section 2.12.

"Letter of Credit" means a letter of credit or similar instrument which is issued upon the application of a Person or upon which a Person is an account party or for which a Person is in any way liable.

"Letter of Credit Fee" is defined in Section 2.14(d).

"Letter of Credit Issuer" means UMB Bank, N.A. in its capacity as issuer of Facility Letters of Credit hereunder.

"Letter of Credit Obligations" means, at any time, the sum, without duplication, of (i) the aggregate undrawn stated amount under all Facility Letters of Credit outstanding at such time plus (ii) the aggregate unpaid amount at such time of all Reimbursement Obligations.

"Letter of Credit Payment Date" is defined in Section 2.14(e).

"Lien" means any lien (statutory or other), mortgage, pledge, hypothecation, assignment, deposit arrangement, encumbrance or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including, without limitation, the interest of a vendor or lessor under any conditional sale, Finance Lease or other title retention agreement).

"Loan" means a Revolving Loan or a Term Loan.

"Loan Documents" means this Agreement, the Facility Letter of Credit Applications, the Collateral Documents, the Environmental Indemnification Agreement, each Guaranty, each Note, each Subordination Agreement and any other document or agreement, now or in the future, executed by a Borrower or a Guarantor for the benefit of the Administrative Agent or any Lender in connection with this Agreement.

"Material Adverse Effect" means a material adverse effect on (i) the business, Property, liabilities (actual and contingent), operations or condition (financial or otherwise), results of operations, or prospects of Holdings and its Subsidiaries taken as a whole, (ii) the ability of any Borrower or any Guarantor to perform its obligations under the Loan Documents to which it is a party, (iii) the validity or enforceability of any of the Loan Documents or the rights or remedies of the Administrative Agent, the Letter of Credit Issuer or the Lenders under the Loan Documents, or (iv) the perfection or priority of any Lien on any material portion of the Collateral.

"Material Indebtedness" means Indebtedness of a Borrower or any Subsidiary in an outstanding principal amount of $2,000,000.00 or more in the aggregate (or the equivalent thereof in any currency other than Dollars).

"Material Indebtedness Agreement" means any agreement evidencing, securing or relating to Material Indebtedness (whether or not an amount of Indebtedness constituting Material Indebtedness is outstanding thereunder).

"Minimum Collateral Amount" means, with respect to a Defaulting Lender, at any time, (i) with respect to cash collateral consisting of cash or deposit account balances, an amount equal to 105% of the Fronting Exposure of the Letter of Credit Issuer with respect to such Defaulting Lender for all Facility Letters of Credit issued and outstanding at such time and (ii) otherwise, an amount determined by the Administrative Agent and the Letter of Credit Issuer in their sole discretion.

"Modify" and "Modification" are defined in Section 2.14(a).

"Multiemployer Plan" means a Plan maintained pursuant to a collective bargaining agreement or any other arrangement to which a Borrower, a Guarantor or any ERISA Affiliate is a party to which more than one employer is obligated to make contributions.

"Net Income" means, for any period, the consolidated net income (or loss) determined for Holdings and its Subsidiaries on a consolidated basis in accordance with GAAP; provided that there shall be excluded (a) the income (or deficit) of any Person (other than a Person acquired as part of the Banker Steel Acquisition) accrued prior to the date it becomes a Subsidiary or is merged into or consolidated with the Borrower or any Subsidiary, and (b) the income (or deficit) of any Person (other than a Subsidiary) in which the Borrower or any Subsidiary has an ownership interest, except (i) to the extent that any such income is actually received by the Borrower or such Subsidiary in the form of dividends or similar distributions on account of such Borrower's or such Subsidiary's ownership interest, or (ii) if such net income is required to be included in the consolidated net income of Holdings and its Subsidiaries in accordance with

GAAP, and (c) the undistributed earnings of any Subsidiary, to the extent that the declaration or payment of dividends or similar distributions by such Subsidiary is not at the time permitted by the terms of any contractual obligation (other than under any Loan Document) or requirement of law applicable to such Subsidiary.

"Net Proceeds" means, with respect to any event, (a) the cash proceeds received in respect of such event including (i) any cash received in respect of any non-cash proceeds (including any cash payments received by way of deferred payment of principal pursuant to a note or installment receivable or purchase price adjustment receivable or otherwise, but excluding any interest payments), but only as and when received, (ii) in the case of a casualty, insurance proceeds and (iii) in the case of a condemnation or similar event, condemnation awards and similar payments, minus (b) the sum of (i) all reasonable fees and out-of-pocket expenses paid to third parties (other than Affiliates) in connection with such event, (ii) in the case of Disposition of an asset (including pursuant to a sale and leaseback transaction or a casualty or a condemnation or similar proceeding), the amount of all payments required to be made as a result of such event to repay Indebtedness (other than Loans) secured by such asset or otherwise subject to mandatory prepayment as a result of such event and (iii) the amount of all taxes paid (or reasonably estimated to be payable) during the year that such event occurred or the next succeeding year and that are directly attributable to such event (as determined reasonably and in good faith by Borrowers).

"Non-Defaulting Lender" means, at any time, each Lender that is not a Defaulting Lender at such time.

"Note" means any note issued pursuant to this Agreement, including but not limited to any Revolving Loan Note or Term Note in favor of a Lender.

"Obligations" means all unpaid principal of and accrued and unpaid interest on the Loans, all Letter of Credit Obligations, all obligations in connection with Cash Management Services, all Hedging Obligations, all accrued and unpaid fees, and all expenses, reimbursements, indemnities and other obligations of a Borrower to the Lenders or to any Lender, the Administrative Agent or any indemnified party arising under the Loan Documents (including interest and fees accruing during the pendency of any bankruptcy, insolvency, receivership or other similar proceeding, regardless of whether allowed or allowable in such proceeding). Notwithstanding the foregoing, as to each Borrower or Guarantor (including as to any Collateral Documents executed by such Borrower or Guarantor), "Obligations" shall exclude any obligation that is an Excluded Swap Obligation as to such Borrower or Guarantor.

"OFAC" means the U.S. Department of the Treasury's Office of Foreign Assets Control, and any successor thereto.

"Operating Lease" of a Person means any lease of Property (other than a Finance Lease) by such Person as lessee.

"Operating Lease Obligations" means, as of any date of determination, the amount obtained by aggregating the present values, determined in the case of each particular Operating Lease by applying a discount rate (which discount rate shall equal the

discount rate which would

be applied under GAAP if such Operating Lease were a Finance Lease) from the date on which each fixed lease payment is due under such Operating Lease to such date of determination, of all fixed lease payments due under all Operating Leases of the Borrowers and their Subsidiaries.

"Other Taxes" means all present or future stamp, court or documentary, intangible, recording, filing or similar Taxes that arise from any payment made under, from the execution, delivery, performance, enforcement or registration of, from the receipt or perfection of a security interest under, or otherwise with respect to, any Loan Document.

"Participant" is defined in Section 12.2(a).

"Participant Register" is defined in Section12.2(c).

"PATRIOT Act" means the USA PATRIOT Act (Title III of Pub. L. 107-56 (signed into law October 26, 2001)), as amended from time to time, and any successor statute.

"Payment Date" means the last day of each calendar month, the Revolving Loan Maturity Date and the Term Loan Maturity Date, *provided*, that if such day is not a Business Day, the Payment Date shall be the immediately succeeding Business Day.

"PBGC" means the Pension Benefit Guaranty Corporation or any successor thereto.

"Permitted Acquisition" means any Acquisition made by a Borrower or any of its Subsidiaries, *provided* that, (a) as of the date of the consummation of such Acquisition, no Default or Event of Default shall have occurred and be continuing or would result after giving effect to such Acquisition, and the representation and warranty contained in Section 5.11 shall be true both before and after giving effect to such Acquisition, (b) such Acquisition is consummated on a non-hostile basis pursuant to a negotiated acquisition agreement that has been (if required by the governing documents of the seller or entity to be acquired) approved by the board of directors or other applicable governing body of the seller or entity to be acquired, and no material challenge to such Acquisition (excluding the exercise of appraisal rights) shall be pending or threatened by any shareholder or director of the seller or entity to be acquired, (c) the business to be acquired in such Acquisition is in the same line of business as a Borrower's or a Subsidiary's line of business or incidental thereto, (d) as of the date of the consummation of such Acquisition, all material approvals required in connection therewith shall have been obtained, (e) the Borrowers shall have furnished to the Administrative Agent a certificate demonstrating in reasonable detail a pro forma compliance with the financial covenants contained in Section 6.19 for such period, in each case, calculated as if such Acquisition, including the consideration therefor, had been consummated on the first day of such period, (f) any entity acquired in such Acquisition, and the entity acquiring assets in such Acquisition, will become a Guarantor hereunder in accordance with Section 6.24, and (g) the aggregate purchase price (including deferred purchase price) for such Acquisitions does not exceed $25,000,000.00 for any single Acquisition or $35,000,000.00 for all Acquisitions during the term of this Agreement (in each case, excluding the Banker Steel Acquisition).

"Permitted Foreign Subsidiary Investment" means (a) loans and capital contributions to Foreign Subsidiaries made prior to the date of this Agreement, and (b) loans and capital contributions to Foreign Subsidiaries made on or after the date of this Agreement that meet the

following conditions:

(i) No Default or Event of Default exists and such Investment will not cause a Default or Event of Default; and

(ii) Such Investments are in an aggregate amount not to exceed $5,000,000.00 at any one time; provided that such Investments may exceed $5,000,000 in the aggregate for a period of time not in excess of 120 days in any fiscal year so long as such Investments do not at any time exceed $6,000,000.00 in the aggregate.

"Permitted Investments" shall mean with respect to any Person:

(a) Governmental Obligations;

(b) Obligations of a state or commonwealth of the United States or the obligations of the District of Columbia or any possession of the United States, or any political subdivision of any of the foregoing, which are described in Section 103(a) of the Code and are graded in any of the highest three (3) major grades as determined by at least one Rating Agency; or secured, as to payments of principal and interest, by a letter of credit provided by a financial institution or insurance provided by a bond insurance company which in each case is itself or its debt is rated in one of the highest three (3) major grades as determined by at least one Rating Agency;

(c) Banker's acceptances, commercial accounts, demand deposit accounts, certificates of deposit, other time deposits or depository receipts issued by or maintained with Administrative Agent, any Lender or any Affiliate thereof, or any bank, trust company, savings and loan association, savings bank or other financial institution whose deposits are insured by the Federal Deposit Insurance Corporation and whose reported capital and surplus equal at least $250,000,000.00, provided that such minimum capital and surplus requirement shall not apply to demand deposit accounts maintained in the ordinary course of business;

(d) Commercial paper rated at the time of purchase within the two highest classifications established by not less than two Rating Agencies, and which matures within 270 days after the date of issue;

(e) Secured repurchase agreements against obligations itemized in paragraph (a) above, and executed by a bank or trust company or by members of the association of primary dealers or other recognized dealers in United States government securities, the market value of which must be maintained at levels at least equal to the amounts advanced; and

(f) Any fund or other pooling arrangement which exclusively purchases and holds the investments itemized in (a) through (e) above.

"Permitted Liens" means the Liens permitted pursuant to Section 6.14.

"Person(s)" means any natural person, corporation, firm, joint venture, partnership, limited liability company, association, enterprise, trust or other entity or organization, or any

government or political subdivision or any agency, department or instrumentality thereof.

"Plan" means an employee pension benefit plan which is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code or Section 302 of ERISA as to which a Borrower or any ERISA Affiliate may have any liability.

"Prepayment Event" means:

(a) any Disposition (including pursuant to a sale and leaseback transaction) of any Property of Holdings or any Subsidiary, other than sales of inventory in the ordinary course of business; or

(b) any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding of, any Property of Holdings or any Subsidiary; or

(c) the issuance by Holdings of any Equity Interests, or the receipt by Holdings of any capital contribution (other than any capital contribution used to fund the Banker Steel Acquisition); or

(d) the incurrence by Holdings or any Subsidiary of any Indebtedness, other than Indebtedness permitted under Section 6.10.

"Prime Rate" means the rate of interest last quoted by The Wall Street Journal as the "Prime Rate" in the United States. Each change in the Prime Rate shall be effective from and including the date such change is publicly announced or quoted as being effective.

"Property" of a Person means any and all property, whether real, personal, tangible, intangible, or mixed, of such Person, or other assets owned, leased or operated by such Person.

"Pro Forma Liquidity" shall mean, as of any date, after giving effect to any proposed Restricted Payment, the sum of (i) Borrowers' unrestricted cash, plus (ii) the Available Aggregate Revolving Commitment.

"Pro Rata Share" shall mean:

(a) with respect to a Lender's obligation to make Revolving Loans and receive payments of principal, interest, fees, costs and expenses with respect thereto, (x) prior to the Revolving Commitments being terminated or reduced to zero, the percentage obtained by dividing (i) such Lender's Revolving Commitment by (ii) the total Revolving Commitment and (y) from and after the time the Revolving Commitments have been terminated or reduced to zero, the percentage obtained by dividing (i) the aggregate unpaid principal amount of such Lender's Revolving Exposure by (ii) the aggregate unpaid principal amount of the Revolving Exposure of all Lenders;

(b) with respect to a Lender's obligation to make a Term Loan and receive payments of interest, fees, and principal with respect thereto, the percentage obtained by

dividing (i) the unpaid principal amount of such Lender's Term Loan by (ii) the unpaid principal amount of all Term Loans of all Lenders;

(c) with respect to all other matters as to a particular Lender, the percentage obtained by dividing (i) such Lender's Revolving Commitment (or if the Revolving Commitments have been terminated or reduced to zero, the aggregate unpaid principal amount of such Lender's Revolving Exposure), plus the unpaid principal amount of such Lender's Term Loan, by (ii) the aggregate amount of the Revolving Commitments of all Lenders (or if the Revolving Commitments have been terminated or reduced to zero, the aggregate unpaid principal amount of the Revolving Exposure of all Lenders), plus the unpaid principal amount of all Term Loans of all Lenders.

"Purchasers" is defined in Section 12.3(a).

"Rating Agency" shall mean Moody's Investor Services, Inc., Standard and Poor's Ratings Services, their respective successors or any other nationally recognized statistical rating organization which is acceptable to the Administrative Agent.

"Register" is defined in Section 12.3(d).

"Regulation U" means Regulation U of the Board of Governors of the Federal Reserve System as from time to time in effect and any successor or other regulation or official interpretation of said Board of Governors relating to the extension of credit by banks for the purpose of purchasing or carrying margin stocks applicable to member banks of the Federal Reserve System.

"Reimbursement Obligations" means, at any time, the aggregate of all obligations of the Borrowers then outstanding under Section 2.14 to reimburse the Letter of Credit Issuer for amounts paid by the Letter of Credit Issuer in respect of any one or more drawings under Facility Letters of Credit.

"Related Fund" means any Person (other than a natural person) that is engaged in making, purchasing, holding or investing in bank loans and similar extensions of credit in the ordinary course and that is administered, advised or managed by (a) a Lender, (b) an Affiliate of a Lender or (c) an entity or an Affiliate of an entity that administers, advises or manages a Lender.

"Reports" is defined in Section 9.6(a).

"Required Lenders" means (i) at least two Lenders that are not Affiliates of each other and that have greater than fifty percent of Pro Rata Share as determined pursuant to clause (c) of the definition of Pro Rata Share; provided that at any time there are two or fewer Lenders, "Required Lenders" means Lenders holding one hundred percent of Pro Rata Share as determined pursuant to clause (c) of the definition of Pro Rata Share. The Commitments and Revolving Exposure of any Defaulting Lender shall be disregarded in determining Required Lenders at any time.

"Restricted Payment" means any dividend or other distribution (whether in cash,

securities or other Property) with respect to any Equity Interest in a Borrower or any Subsidiary, or any payment (whether in cash, securities or other Property), including any sinking fund or similar deposit, on account of the purchase, redemption, retirement, acquisition, cancellation or termination of any such Equity Interests in a Borrower or any Subsidiary thereof or any option, warrant or other right to acquire any such Equity Interest in a Borrower or any Subsidiary thereof.

"Revolving Commitment" means, for each Lender, the obligation, if any, of such Lender to make Revolving Loans to, and participate in Facility Letters of Credit issued upon the application of, the Borrowers, expressed as an amount representing the maximum possible aggregate amount of such Lender's Revolving Exposure hereunder. The initial amount of each Revolving Lender's Revolving Commitment is set forth on Schedule 2. As of the First Amendment Date, the aggregate amount of the Revolving Lenders' Revolving Commitments is $135,000,000.00.

"Revolving Exposure" means, with respect to any Lender at any time, the sum of (i) the aggregate principal Dollar Amount of such Lender's Revolving Loans outstanding at such time, plus (ii) an amount equal to its Pro Rata Share of the Letter of Credit Obligations at such time.

"Revolving Lender" means, as of any date of determination, a Lender with a Revolving Commitment or, if the Revolving Commitments have terminated or expired, a Lender with Revolving Exposure.

"Revolving Loan" means, with respect to a Lender, such Lender's loan made pursuant to its commitment to lend set forth in Section 2.1.

"Revolving Loan Interest Rate" means for any day, the **greater of (a) 4.25% per annum, and (b) the** rate per annum set forth below opposite the applicable Level then in effect (based on the Senior Funded Indebtedness to EBITDA Ratio):

Level	**Senior Funded Indebtedness to EBITDA Ratio**	**Revolving Loan Interest Rate**
I	< 1.00 to 1.00	Prime Rate minus 1.~~60~~**25**%
II	≥ 1.00 to 1.00 and < 1.50 to 1.0	Prime Rate minus 1.~~35~~**00**%
III	≥ 1.50 to 1.00 and < 2.00 to 1.0	Prime Rate minus ~~1.10~~**0.75**%
IV	≥ 2.00 to 1.0	Prime Rate minus 0.~~8~~**5**0%

Any increase or decrease in the Revolving Loan Interest Rate resulting from a change in the Senior Funded Indebtedness to EBITDA Ratio shall become effective as of the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.1(c); provided, however, that if a Compliance Certificate is not delivered when due in accordance with such Section, then, upon the request of the Required Lenders, the rate set forth in Level IV shall apply, in each case as of the first Business Day after the date on which such Compliance Certificate was required to have been delivered and in each case shall remain in effect until the first Business Day following the date on which such Compliance Certificate is delivered. In addition, at all times while the Default Rate is in effect the rate set forth in Level IV shall apply.

If, as a result of any restatement of or other adjustment to the financial statements of Holdings or any Subsidiary or for any other reason, the Borrowers, or the Lenders determine that (i) the Senior Funded Indebtedness to EBITDA Ratio as calculated by the Borrowers as of any applicable date was inaccurate and (ii) a proper calculation of the Senior Funded Indebtedness to EBITDA Ratio would have resulted in higher pricing for such period, the Borrowers shall immediately and retroactively be obligated to pay to the Administrative Agent for the account of the applicable Lenders promptly on demand by the Administrative Agent (or, after the occurrence of an actual or deemed entry of an order for relief with respect to any Borrower under the Bankruptcy Code of the United States, automatically and without further action by the Administrative Agent, any Lender or the Letter of Credit Issuer), an amount equal to the excess of the amount of interest that should have been paid for such period over the amount of interest and fees actually paid for such period.

This paragraph shall not limit the rights of the Administrative Agent, the Letter of Credit Issuer or any Lender under any provision of this Agreement to payment of interest on any Obligations at the Default Rate. The Borrowers' obligations under this paragraph shall survive the termination of the Commitments and the repayment of all other Obligations hereunder.

The initial Revolving Loan Interest Rate shall be as set forth in Level III until the first Business Day immediately following the date a Compliance Certificate is delivered pursuant to Section 6.1(c) for the fiscal quarter ending on July 3, 2021 to the Administrative Agent.

"Revolving Loan Maturity Date" means ~~May~~**August** ~~3~~1**5**, 202~~4~~**5**.

"Revolving Loan Note" means any note or notes executed by Borrowers evidencing Revolving Loans.

"Risk-Based Capital Guidelines" means (i) the risk-based capital guidelines in effect in the United States on the date of this Agreement, including transition rules, and (ii) the corresponding capital regulations promulgated by regulatory authorities outside the United States, including transition rules, and, in each case, any amendments to such regulations.

"Sanctioned Country" means, at any time, a country, region or territory which is the subject or target of any Sanctions.

"Sanctioned Person" means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by OFAC, the U.S. Department of State, the United

Nations Security Council, the European Union, any European Union member state, Her Majesty's Treasury of the United Kingdom or other relevant sanctions authority, (b) any Person operating, organized or resident in a Sanctioned Country, (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b), or (d) any Person otherwise the subject of any Sanctions.

"Sanctions" means sanctions administered or enforced from time to time by the U.S. government, including those administered by OFAC or the U.S. Department of State, the United Nations Security Council, the European Union, Her Majesty's Treasury or other relevant sanctions authority.

"Second Amendment Date" means November ___, 2023.

"Security Agreement" means, collectively, all Security Agreements executed by one or more of Borrowers and Guarantors in favor of the Administrative Agent, as amended, restated, supplemented or otherwise modified, renewed or replaced from time to time pursuant to the terms hereof and thereof.

"Senior Funded Indebtedness" means, at any date, the aggregate principal amount of total Indebtedness of Holdings and its Subsidiaries on a consolidated basis, including Finance Lease Obligations but excluding undrawn amounts under Letters of Credit and Operating Lease Obligations, *minus* the sum of (to the extent included in Indebtedness) (a) accounts payable arising from the purchase of goods and services in the ordinary course of business, (b) accrued expenses or losses, (c) deferred revenues or gains, and (d) Subordinated Indebtedness, all determined for Holdings and its Subsidiaries on a consolidated basis at such date, in accordance with GAAP.

"Senior Funded Indebtedness to EBITDA Ratio" means, at any date, the ratio of (a) Senior Funded Indebtedness for such date to (b) EBITDA for the period of four fiscal quarters ended on or most recently prior to such date.

"Side Letter" means the Side Letter as defined in the Subordination Agreement between Administrative Agent and The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009 and the Subordination Agreement between Administrative Agent and Donald Banker,

"Subordination Agreements" means (a) the Subordination and Intercreditor Agreement dated the date hereof between Administrative Agent and the sellers in the Banker Steel Acquisition, (b) the Subordination and Intercreditor Agreement dated the date hereof between Administrative Agent and The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009, (c) the Subordination and Intercreditor Agreement dated the date hereof between Administrative Agent and Donald Banker, and (d) all other subordination agreements executed by a holder of Subordinated Indebtedness in favor of the Administrative Agent and the Lenders from time to time after the Effective Date, in each case in form and substance satisfactory to Administrative Agent and Required Lenders; as amended, restated or otherwise modified from time to time.

"Subordinated Indebtedness" of a Person means any Indebtedness of such Person the payment of which is subordinated to payment of the Obligations to the written satisfaction of the

Required Lenders. For avoidance of doubt, amounts owing under the Side Letter are Subordinated Indebtedness.

"Subsidiary" of a Person means (i) any corporation more than 50% of the outstanding securities having ordinary voting power of which shall at the time be owned or controlled, directly or indirectly, by such Person or by one or more of its Subsidiaries or by such Person and one or more of its Subsidiaries, or (ii) any partnership, limited liability company, association, joint venture or similar business organization more than 50% of the ownership interests having ordinary voting power of which shall at the time be so owned or controlled. Unless otherwise expressly provided, all references herein to a "Subsidiary" shall mean a Subsidiary of Holdings.

"Swap Obligation" means any obligation to pay or perform under any agreement, contract or transaction that constitutes a "swap" within the meaning of section 1a(47) of the Commodity Exchange Act or any rules or regulations promulgated thereunder.

"Tangible Assets" shall mean the total of all assets appearing on the consolidated balance sheet of Holdings prepared in accordance with GAAP (with inventory being valued at the lower of cost or market), after deducting all proper reserves (including reserves for depreciation) minus the sum of (i) goodwill, patents, trademarks, prepaid expenses, deposits, deferred charges and other personal property which is classified as intangible property in accordance with GAAP, and (ii) any amounts due from shareholders, Affiliates, officers or employees of the Borrowers.

"Taxes" means any and all present or future taxes, duties, levies, imposts, deductions, fees, assessments, charges or withholdings, and any and all liabilities with respect to the foregoing, including interest, additions to tax and penalties applicable thereto.

"Term Loan" has the meaning given in Section 2.2.

"Term Loan Commitment" means, as to any Lender, the commitment of such Lender to make a Term Loan pursuant to Section 2.2. The amount of each Lender's Term Loan Commitment on the Effective Date is set forth on Schedule 2 and, on the date hereof, the aggregate amount of the Term Loan Commitments is $110,000,000.00.

"Term Loan Maturity Date" means May 31, 2026.

"Term Note" means any note or notes executed by Borrowers evidencing any portion of the Term Loan.

"Title Insurer" means Fidelity National Title Insurance Company.

"Transferee" is defined in Section 12.3(e).

"UMB Bank, N.A." means UMB Bank, N.A., a national banking association, in its individual capacity, and its successors.

"Undisclosed Administration" means in relation to a Lender the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official by a supervisory authority or regulator under or based on the law in the country where

such Lender is subject to home jurisdiction supervision if applicable law requires that such appointment is not to be publicly disclosed.

"Unfinanced Capital Expenditures" means, for any period, Capital Expenditures made during such period which are not financed from the proceeds of any Indebtedness (other than the Revolving Loans or other revolving Indebtedness; it being understood and agreed that, to the extent any Capital Expenditures are financed with Revolving Loans or other revolving indebtedness, such Capital Expenditures shall be deemed Unfinanced Capital Expenditures).

The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms.

1.2 Computation of Time Periods. In this Agreement, in the computation of a period of time from a specified date to a later specified date, unless otherwise stated the word "from" means "from and including" and the word "to" or "until" each means "to but excluding".

1.3 Other Definitional Terms; Interpretative Provisions; Governing Decisions. The words "hereof," "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. References to Sections, Exhibits, schedules and like references are to this Agreement unless otherwise expressly provided. The words "include," "includes" and "including" shall be deemed to be followed by the phrase "without limitation." The term "shall" shall have the same meaning as the term "will". Unless the context in which used herein otherwise clearly requires, "or" has the inclusive meaning represented by the phrase "and/or." All incorporation by reference of covenants, terms, definitions or other provisions from other agreements are incorporated into this Agreement as if such provisions were fully set forth herein, and such incorporation shall include all necessary definitions and related provisions from such other agreements but including only amendments thereto agreed to by the Lenders, and shall survive any termination of such other agreements until the Obligations under this Agreement and the other Loan Documents are irrevocably paid in full (other than inchoate indemnity obligations and Obligations that have been cash collateralized to the satisfaction of Administrative Agent, Letter of Credit Issuer and Lenders), all Facility Letters of Credit have expired without renewal or been returned to Letter of Credit Issuer, and the Revolving Commitments are terminated. Any reference to any law shall include all statutory and regulatory provisions consolidating, amending, replacing or interpreting such law and any reference to any law or regulation shall, unless otherwise specified, refer to such law or regulation as amended, modified or supplemented from time to time and any successor law or regulation. References to any document, instrument or agreement (a) shall include all exhibits, schedules and other attachments thereto, (b) shall include all documents, instruments or agreements issued or executed in replacement thereof, to the extent permitted hereby and (c) shall mean such document, instrument or agreement, or replacement or predecessor thereto, as amended, supplemented, restated or otherwise modified from time to time to the extent not otherwise stated herein or prohibited hereby and in effect at any given time.

ARTICLE II

THE CREDITS

2.1 Revolving Commitment. From and including the date of this Agreement and prior to the Revolving Loan Maturity Date, each Lender severally agrees, on the terms and conditions set forth in this Agreement, to make Revolving Loans to the Borrowers and participate in Facility Letters of Credit issued upon the request of the Borrowers, *provided* that, after giving effect to the making of each such Revolving Loan and the issuance of each such Facility Letter of Credit, the Dollar Amount of such Lender's Revolving Exposure shall not exceed its Revolving Commitment. All Revolving Loans shall be made in Dollars. Subject to the terms of this Agreement, the Borrowers may borrow, repay and reborrow the Revolving Loans at any time prior to the Revolving Loan Maturity Date.

2.2 Term Loan Commitment. Each Lender with a Term Loan Commitment severally agrees to make a loan to Borrowers in Dollars (the "Term Loan") on the Effective Date in the amount of such Lender's Term Loan Commitment. The Commitments of the Lenders to make Term Loans shall expire concurrently with the making of the Term Loan on the Effective Date.

2.3 Required and Optional Payments; Termination.

(a) Scheduled Payments.

(i) Revolving Loans. If at any time the Dollar Amount of the aggregate Revolving Exposures exceeds the aggregate Revolving Commitments, the Borrowers shall immediately make a payment on the Loans to eliminate such excess. Unless sooner paid in full, the outstanding principal balance of the Revolving Loans and all accrued and unpaid interest on Revolving Loans shall be paid in full on the Revolving Loan Maturity Date.

(ii) Term Loans. The Term Loan of each Lender shall be paid in installments equal to such Lender's Pro Rata Share of monthly payments of principal and interest of the Term Loan equal to $775,827.76 per month, payable on each Payment Date, commencing June 30, 2021. Unless sooner paid in full, the outstanding principal balance of the Term Loan and all accrued and unpaid interest on the Term Loan shall be paid in full on the Term Loan Maturity Date.

(iii) Maturity Dates. The outstanding balance of the Revolving Exposure and all other then outstanding Obligations under this Agreement and the other Loan Documents (other than the Term Loan) shall be paid in full by the Borrowers and all Facility Letters of Credit terminated and returned to the Letter of Credit Issuer (or cash collateralized to the satisfaction of Administrative Agent, the Letter of Credit Issuer and Lenders) on the Revolving Loan Maturity Date. The outstanding balance of the Term Loan and all other then outstanding Obligations under this Agreement and the other Loan Documents shall be paid in full by the Borrowers on the Term Loan Maturity Date.

(b) Optional Prepayments. Any Borrower may from time to time (i) pay all outstanding Advances, or (ii) pay any portion of the outstanding Advances in the amount of $1,000,000.00 or a greater amount that is a multiple of $500,000.00 (or the aggregate amount of the outstanding Loans at such time), in each case upon same day notice to the Administrative Agent, provided that in connection with any prepayment of the Term Loan, Borrowers shall pay any amount required under Section 2.6.4.

(c) Mandatory Prepayments. In the event and on each occasion that any Net Proceeds are received by or on behalf of Holdings or any Subsidiary in respect of any Prepayment Event, the Borrowers shall, immediately after such Net Proceeds are received by Holdings or any Subsidiary, prepay the Obligations and cash collateralize the Letter of Credit Obligations in an aggregate amount equal to 100% of such Net Proceeds, provided that, in the case of any event described in clause (a) or (b) of the definition of the term "Prepayment Event", if the Borrowers shall deliver to the Lender a certificate of an Authorized Officer to the effect that the Borrowers intend to apply the Net Proceeds from such event (or a portion thereof specified in such certificate), within 90 days after receipt of such Net Proceeds, to acquire (or replace or rebuild) real property, equipment or other tangible assets (excluding inventory) to be used in the business of Holdings and its Subsidiaries, and certifying that no Default or Event of Default has occurred and is continuing, then no prepayment shall be required pursuant to this paragraph in respect of the Net Proceeds specified in such certificate, provided that to the extent of any such Net Proceeds that have not been so applied by the end of such 90-day period, a prepayment shall be required at such time in an amount equal to such Net Proceeds that have not been so applied.

(d) Application of Prepayments.

(i) All prepayments made pursuant to Section 2.3(b) (A) if made with respect to the Term Loans, shall be applied to reduce the subsequent scheduled repayments of Term Loans to be made pursuant to Section 2.3(a) in inverse order of maturity or (B) if made with respect to the Revolving Loans, to prepay such Loans in accordance with the Lender's respective Pro Rata Share without a corresponding reduction in the Revolving Commitments and to cash collateralize outstanding Letter of Credit Obligations.

(ii) All prepayments required to be made pursuant to Section 2.3(c) shall be applied, first to prepay the Term Loans and shall be applied to reduce the subsequent scheduled repayments of Term Loans to be made pursuant to Section 2.3(a) in inverse order of maturity and second to prepay the Revolving Loans without a corresponding reduction in the Revolving Commitment and third to cash collateralize outstanding Letter of Credit Obligations; provided that all prepayments required to be made pursuant to Section 2.3(c) with respect to Net Proceeds arising from any casualty or other insured damage to, or any taking under power of eminent domain or by condemnation or similar proceeding, to the extent they arise from casualties or losses to cash or inventory shall be applied, first, to prepay the Revolving Loans with a corresponding reduction in the Revolving Commitment and second, to cash collateralize outstanding Letter of

Credit Obligations, and third, to prepay the Term Loans (allocated and applied to subsequent scheduled repayments as set forth above).

2.4 Revolving Loan Borrowing; Ratable Loans. For Revolving Loans, unless otherwise agreed by Administrative Agent, Holdings, as Borrower Agent, shall give the Administrative Agent irrevocable notice in the form of Exhibit D (a "Borrowing Notice") not later than 10:00 a.m. (Phoenix, Arizona time) on the Borrowing Date, specifying: (a) the Borrowing Date, which shall be a Business Day, of such Advance, and (b) the aggregate amount of such Advance. The aggregate amount of any Advance of a Revolving Loan shall be the amount of $1,000,000.00 or a greater amount that is a multiple of $500,000.00. Not later than 4:00 PM (Phoenix, Arizona time) on each Borrowing Date, each Lender shall make available its Revolving Loans in funds immediately available to the Administrative Agent at its address specified pursuant to Article XIII. The Administrative Agent will make the funds so received from the Lenders available to Holdings at the Administrative Agent's aforesaid address. Each Advance of Revolving Loans shall be made from the several Revolving Lenders ratably according to their Pro Rata Shares.

2.5 Interest Rates.

2.5.1 Interest Rates. Each Advance shall bear interest on the outstanding principal amount thereof, for each day from and including the date such Advance is made, to but excluding the date it is repaid, at a rate per annum equal to (a) in the case of Revolving Loans, the Revolving Loan Interest Rate for such day, and (b) in the case of Term Loans, 3.25% per annum, in each case subject to Section 2.5.2. Changes in the rate of interest on any Advance of Revolving Loans will take effect simultaneously with each change in the Revolving Loan Interest Rate.

2.5.2 Rates Applicable After Event of Default. Notwithstanding anything to the contrary contained herein, during the continuance of an Event of Default the Required Lenders may, at their option, by notice from the Administrative Agent to Holdings (which notice may be revoked at the option of the Required Lenders notwithstanding any provision of Section 8.3 requiring unanimous consent of the Lenders to changes in interest rates), declare that each Advance shall bear interest at a rate per annum equal to the rate otherwise in effect from time to time *plus* 2.00% per annum (the "Default Rate"), and the Letter of Credit Fee shall be increased by 2.00% per annum, *provided* that, during the continuance of an Event of Default under Sections 7.2, 7.5 or 7.6, the interest rates set forth above shall be applicable automatically to all Advances without any election or action on the part of the Administrative Agent or any Lender. After an Event of Default has been waived, the interest rate applicable to advances and the Letter of Credit Fee shall revert to the rates applicable prior to the occurrence of an Event of Default.

2.6 Fees.

2.6.1 Upfront Fee. The Borrowers agree to pay to the Administrative Agent for the account of each Lender according to its Pro Rata Share of the Loans on the Effective Date, an upfront fee equal to 0.25% *times* the sum of such Lender's Revolving Commitment plus such Lender's Term Loan Commitment as of the Effective Date.

2.6.2 Administrative Fee. The Borrowers agree to pay to the Administrative Agent for the account of Administrative Agent on the Effective Date, an administrative fee equal to 0.10% *times* the aggregate Commitments as of the Effective Date.

2.6.3 Commitment Fee. The Borrowers agree to pay to the Administrative Agent for the account of each Lender according to its Pro Rata Share of the Revolving Loans a commitment fee at a per annum rate equal to 0.25% per annum *times* the average daily Available Aggregate Revolving Commitment from the date hereof to and including the Revolving Loan Maturity Date, payable in arrears on each Payment Date.

2.6.4 Prepayment Fees. Borrowers shall pay a prepayment fee for the benefit of the Lenders based on each Lender's Pro Rata Share of the Term Loan upon any prepayment of the Term Loan in an amount equal to the Prepayment Percentage times the principal amount prepaid. The "Prepayment Percentage" shall equal (a) three percent (3.0%) to but excluding the first anniversary of the date of this Agreement, (b) two percent (2.0%) from and including the first anniversary of the date of this Agreement to but excluding the second anniversary of the date of this Agreement, and (c) one percent (1.0%) from and including the second anniversary of the date of this Agreement to but excluding the third anniversary of the date of this Agreement. Such fees shall be due and payable on the date of the applicable prepayment. For purposes of this Section 2.6.4, acceleration of the Loans following an Event of Default shall be considered a prepayment in full of the Loans; accordingly, the prepayment fee described in this Section shall be part of the Obligations and may be included by the Administrative Agent and Lenders in any judgment taken against the Borrower. The Borrower acknowledges that the prepayment fee described in this Section is a reasonable estimate of the cost to the Lenders resulting from the prepayment or acceleration of the Loans and is not imposed as a penalty. Notwithstanding the foregoing, no fee shall be payable under this Section 2.6.4 as a result of (x) a termination of this Agreement in connection with a restructuring or refinancing of the Commitments with Administrative Agent, (y) any prepayment made with excess cash arising from Borrower's operations, or (z) any prepayment made with proceeds of asset sales by Borrowers.

2.6.5 First Amendment Fees. The Borrowers agree to pay to the Administrative Agent for the account of each Lender on the First Amendment Date, a fee equal to the sum of (a) 0.25% *times* the portion of such Lender's Revolving Commitment that is part of the First Amendment Increase, plus (b) 0.15% times sum of the amount of such Lender's Revolving Commitment, excluding the portion of such Lender's Revolving Commitment referenced in the foregoing clause (a), plus such Lender's Term Loan Commitment as of the First Amendment Date.

2.6.6 Second Amendment Fees. The Borrowers agree to pay to the Administrative Agent for the account of each Lender on the Second Amendment Date, a fee equal to 0.25% *times* the amount of such Lender's Revolving Commitment.

2.7 Method of Payment of Loans. Each Advance shall be repaid and each payment of interest thereon shall be paid in Dollars. All payments of the Obligations under this Agreement and the other Loan Documents shall be made, without setoff, deduction, or counterclaim, in immediately available funds to the Administrative Agent at the Administrative Agent's address specified pursuant to Article XIII, or at any other Lending Installation of the Administrative Agent specified in writing by the Administrative Agent to Holdings, by 12:00 noon (Phoenix, Arizona time) on the date when due and shall (except (a) in the case of Reimbursement Obligations for which the Letter of Credit Issuer has not been fully indemnified by the Lenders, or (b) as otherwise specifically required hereunder) be applied ratably by the Administrative Agent among the Lenders. Each payment delivered to the Administrative Agent for the account of any Lender shall be delivered promptly, but in any event within one (1) Business Day of receipt thereof, by the Administrative Agent to such Lender in the same type of funds that the Administrative Agent received at its address specified pursuant to Article XIII or at any Lending Installation specified in a notice received by the Administrative Agent from such Lender. The Administrative Agent is hereby authorized to charge the account of Holdings maintained with UMB Bank, N.A., for each payment of principal, interest, Reimbursement Obligations and fees as it becomes due hereunder. Each reference to the Administrative Agent in this Section 2.7 shall also be deemed to refer, and shall apply equally, to the Letter of Credit Issuer, in the case of payments required to be made by a Borrower to the Letter of Credit Issuer pursuant to Section 2.14(f).

2.8 Evidence of Indebtedness. Each Lender shall maintain in accordance with its usual practice an account or accounts evidencing the Indebtedness of the Borrowers to such Lender resulting from each Loan made by such Lender from time to time, including the amounts of principal and interest payable and paid to such Lender from time to time hereunder.

(a) The Administrative Agent shall also maintain accounts in which it will record (i) the amount of each Loan made hereunder, (ii) the amount of any principal or interest due and payable or to become due and payable from the Borrowers to each Lender hereunder, and (iii) the original stated amount of each Facility Letter of Credit and the amount of Letter of Credit Obligations outstanding at any time, and (iv) the amount of any sum received by the Administrative Agent hereunder from the Borrowers and each Lender's share thereof.

(b) The entries maintained in the accounts maintained pursuant to this Section 2.8 shall be *prima facie* evidence of the existence and amounts of the Obligations therein recorded; *provided, however*, that the failure of the Administrative Agent or any Lender to maintain such accounts or any error therein shall not in any manner affect the obligation of the Borrowers to repay the Obligations in accordance with their terms.

(c) Any Lender may request through the Administrative Agent that the Loans made by such Lender be evidenced by a promissory note, substantially in the form of Exhibit E-1 or E-2, as applicable (each a "Note"). In such event, the Borrowers shall prepare, execute and deliver to such Lender such Note or Notes payable to the order of such Lender.

2.9 Telephonic Notices. The Borrowers hereby authorize the Lenders and the Administrative Agent to extend Advances and to transfer funds based on telephonic notices made by any Person or Persons the Administrative Agent or any Lender in good faith believes to be acting on behalf of a Borrower, it being understood that the foregoing authorization is specifically intended to allow Borrowing Notices to be given telephonically. Each Borrower agrees to deliver promptly to the Administrative Agent a written confirmation (which may include e-mail) of each telephonic notice authenticated by an Authorized Officer. If the written confirmation differs in any material respect from the action taken by the Administrative Agent and the Lenders, the records of the Administrative Agent and the Lenders shall govern absent manifest error. The parties agree to prepare appropriate documentation to correct any such error within ten (10) days after discovery by any party to this Agreement.

2.10 Calculation and Payment of Interest. Interest accrued on each Advance shall be payable on each Payment Date, commencing with the first Payment Date to occur after the Effective Date. Interest accrued pursuant to Section 2.5.2 shall be payable on demand. Interest on all Advances and fees shall be calculated for actual days elapsed on the basis of a 360-day year. Interest shall be payable for the day an Advance is made but not for the day of any payment on the amount paid if payment is received prior to 12:00 p.m. (Phoenix, Arizona time) at the place of payment. If any payment of principal of or interest on an Advance shall become due on a day which is not a Business Day, such payment shall be made on the next succeeding Business Day.

2.11 Notification of Advances, Interest Rates, and Prepayments. Promptly after receipt thereof, the Administrative Agent will notify each Lender of the contents of each Borrowing Notice and repayment notice received by it hereunder. Promptly after notice from the Letter of Credit Issuer, the Administrative Agent will notify each Lender of the contents of each request for issuance of a Facility Letter of Credit hereunder. The Administrative Agent will notify each Lender of the interest rate applicable to each Advance promptly upon determination of such interest rate and will give each Lender prompt notice of each change in the applicable interest rate.

2.12 Lending Installations. Each of the Administrative Agent, the Letter of Credit Issuer and the Lenders may designate its Lending Installation; each Lender may book its Advances and its participation in any Letter of Credit Obligations; and the Letter of Credit Issuer may book the Facility Letters of Credit at any Lending Installation selected by Administrative Agent, such Lender or the Letter of Credit Issuer, as the case may be, and may change its Lending Installation from time to time. All terms of this Agreement shall apply to any such Lending Installation and the Loans, Facility Letters of Credit, participations in Letter of Credit Obligations and any Notes issued hereunder shall be deemed held by each Lender or the Letter of Credit Issuer, as the case may be, for the benefit of any such Lending Installation. Each Lender and the Letter of Credit Issuer may, by written notice to the Administrative Agent and Holdings in accordance with Article XIII, designate replacement or additional Lending Installations through which Loans will be made by it or Facility Letters of Credit will be issued by it and for whose account Loan payments or payments with respect to Facility Letters of Credit are to be made.

2.13 Non-Receipt of Funds by the Administrative Agent. Unless the Borrowers or a Lender, as the case may be, notify the Administrative Agent prior to the date on which it is scheduled to make payment to the Administrative Agent of (a) in the case of a Lender, the proceeds of a Loan or (b) in the case of the Borrowers, a payment of principal, interest or fees to the Administrative Agent for the account of the Lenders, that it does not intend to make such payment, the Administrative Agent may assume that such payment has been made. The Administrative Agent may, but shall not be obligated to, make the amount of such payment available to the intended recipient in reliance upon such assumption. If such Lender or the Borrowers, as the case may be, have not in fact made such payment to the Administrative Agent, the recipient of such payment shall, on demand by the Administrative Agent, repay to the Administrative Agent the amount so made available together with interest thereon in respect of each day during the period commencing on the date such amount was so made available by the Administrative Agent until the date the Administrative Agent recovers such amount at a rate per annum equal to (x) in the case of payment by a Lender, the Federal Funds Effective Rate for such day for the first three (3) days and, thereafter, the interest rate applicable to the relevant Loan or (y) in the case of payment by the Borrowers, the interest rate applicable to the relevant Loan.

2.14 Facility Letters of Credit.

(a) Issuance. The Letter of Credit Issuer hereby agrees, on the terms and conditions set forth in this Agreement, to issue Letters of Credit denominated in Dollars (each, a "Facility Letter of Credit") and to renew, extend, increase, decrease or otherwise modify each Facility Letter of Credit ("Modify," and each such action a "Modification"), from time to time from and including the date of this Agreement and prior to the Revolving Loan Maturity Date upon the request of the Borrowers; provided that immediately after each such Facility Letter of Credit is issued or Modified, the aggregate Dollar Amount of the outstanding Letter of Credit Obligations shall not cause (i) the aggregate amount of Letter of Credit Obligations at any time to exceed $25,000,000.00, or (ii) a Lender's Revolving Exposure to exceed its Revolving Commitment. No Facility Letter of Credit shall have an expiry date later than the earlier to occur of (x) the fifth Business Day prior to the Revolving Loan Maturity Date and (y) one (1) year after its issuance; provided, however, that the expiry date of a Facility Letter of Credit may be up to one (1) year later than the fifth Business Day prior to the Revolving Loan Maturity Date if the Borrowers have posted on or before the fifth Business Day prior to the Revolving Loan Maturity Date cash collateral in the Facility Letter of Credit Collateral Account on terms satisfactory to the Administrative Agent in an amount equal to 105% of the Letter of Credit Obligations with respect to such Facility Letter of Credit. Notwithstanding anything herein to the contrary, the Letter of Credit Issuer shall have no obligation hereunder to issue any Facility Letter of Credit the proceeds of which would be made available to any Person (i) to fund any activity or business of or with any Sanctioned Person, or in any country or territory that, at the time of such funding, is the subject of any Sanctions or (ii) in any manner that would result in a violation of any Sanctions by any party to this Agreement.

(b) Participations. Upon the issuance by the Letter of Credit Issuer of a Facility Letter of Credit, the Letter of Credit Issuer shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably sold to each Lender,

and each Lender shall be deemed, without further action by any party hereto, to have unconditionally and irrevocably purchased from the Letter of Credit Issuer, a participation in such Facility Letter of Credit (and each Modification thereof) and the related Letter of Credit Obligations in proportion to its Pro Rata Share.

(c) Notice. The Borrowers shall give the Administrative Agent notice prior to 10:00 a.m. (Phoenix, Arizona time) at least five (5) Business Days prior to the proposed date of issuance of each Facility Letter of Credit, specifying the beneficiary, the proposed date of issuance and the expiry date of such Facility Letter of Credit, and describing the proposed terms of such Facility Letter of Credit and the nature of the transactions proposed to be supported thereby. Upon receipt of such notice, the Administrative Agent shall promptly notify the Letter of Credit Issuer and each Lender of the contents thereof and of the amount of such Lender's participation in such proposed Facility Letter of Credit. The issuance by the Letter of Credit Issuer of any Facility Letter of Credit shall, in addition to the conditions precedent set forth in Article IV, be subject to the conditions precedent that such Facility Letter of Credit shall be satisfactory to the Letter of Credit Issuer and that the Borrowers shall have executed and delivered such application agreement and/or such other instruments and agreements relating to such Facility Letter of Credit as the Letter of Credit Issuer shall have reasonably requested (each, a "Facility Letter of Credit Application"). The Letter of Credit Issuer shall have no independent duty to ascertain whether the conditions set forth in Article IV have been satisfied; provided, however, that the Letter of Credit Issuer shall not issue a Facility Letter of Credit if, on or before the proposed date of issuance, the Letter of Credit Issuer shall have received notice from the Administrative Agent or the Required Lenders that any such condition has not been satisfied or waived. In the event of any conflict between the terms of this Agreement and the terms of any Facility Letter of Credit Application, the terms of this Agreement shall control.

(d) Letter of Credit Fees. The Borrowers shall pay to the Administrative Agent, for the account of the Lenders ratably in accordance with their respective Pro Rata Shares, with respect to each Facility Letter of Credit, a letter of credit fee at a per annum rate equal to 1.25% on the maximum stated amount of such Facility Letter of Credit (after giving effect to any scheduled increases or decreases) for the period from the date of issuance to the scheduled expiration date of such Facility Letter of Credit, such fee to be payable on or before the date of issuance (the "Letter of Credit Fee").

(e) Administration; Reimbursement by Lenders. Upon receipt of any demand for payment under any Facility Letter of Credit from the beneficiary of such Facility Letter of Credit, the Letter of Credit Issuer shall notify the Administrative Agent and the Administrative Agent shall promptly notify Holdings and each other Lender as to the amount to be paid by the Letter of Credit Issuer as a result of such demand and the proposed payment date (the "Letter of Credit Payment Date"). The responsibility of the Letter of Credit Issuer to the Borrowers and each Lender shall be only to determine that the documents (including each demand for payment) delivered under each Facility Letter of Credit in connection with such presentment shall be in conformity in all material respects with such Facility Letter of Credit. The Letter of Credit Issuer shall endeavor to exercise the same care in the issuance and administration of the Facility Letters of Credit

as it does with respect to letters of credit in which no participations are granted, it being understood that each Lender shall be unconditionally and irrevocably liable without regard to the occurrence of any Event of Default or any condition precedent whatsoever, to reimburse the Letter of Credit Issuer on demand for (i) such Lender's Pro Rata Share of the amount of each payment made by the Letter of Credit Issuer under each Facility Letter of Credit to the extent such amount is not reimbursed by the Borrowers pursuant to Section 2.14(f) below and there are not funds available in the Facility Letter of Credit Collateral Account to cover the same, plus (ii) interest on the foregoing amount to be reimbursed by such Lender, for each day from the date of the Letter of Credit Issuer's demand for such reimbursement (or, if such demand is made after 11:00 a.m. (Phoenix, Arizona time) on such date, from the next succeeding Business Day) to the date on which such Lender pays the amount to be reimbursed by it a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation.

(f) Reimbursement by Borrowers. The Borrowers shall be irrevocably and unconditionally obligated to reimburse the Letter of Credit Issuer on or before the applicable Letter of Credit Payment Date for any amounts to be paid by the Letter of Credit Issuer upon any drawing under any Facility Letter of Credit, without presentment, demand, protest or other formalities of any kind; provided that neither the Borrowers nor any Lender shall hereby be precluded from asserting any claim for direct (but not consequential) damages suffered by the Borrowers or such Lender to the extent, but only to the extent, caused by (i) the willful misconduct or gross negligence of the Letter of Credit Issuer in determining whether a request presented under any Facility Letter of Credit issued by it complied with the terms of such Facility Letter of Credit or (ii) the Letter of Credit Issuer's failure to pay under any Facility Letter of Credit issued by it after the presentation to it of a request strictly complying with the terms and conditions of such Facility Letter of Credit. All such amounts paid by the Letter of Credit Issuer and remaining unpaid by the Borrowers shall bear interest, payable on demand, for each day until paid at a rate per annum equal to (x) the Revolving Loan Interest Rate for such day if such day falls on or before the applicable Letter of Credit Payment Date and (y) the sum of 2.00% per annum plus the Revolving Loan Interest Rate for such day if such day falls after such Letter of Credit Payment Date. The Letter of Credit Issuer will pay to each Lender ratably in accordance with its Pro Rata Share all amounts received by it from the Borrowers for application in payment, in whole or in part, of the Reimbursement Obligation in respect of any Facility Letter of Credit issued by the Letter of Credit Issuer, but only to the extent such Lender has made payment to the Letter of Credit Issuer in respect of such Facility Letter of Credit pursuant to Section 2.14(e). Subject to the terms and conditions of this Agreement (including without limitation the submission of a Borrowing Notice in compliance with Section 2.4 and the satisfaction of the applicable conditions precedent set forth in Article IV), the Borrowers may request an Advance hereunder for the purpose of satisfying any Reimbursement Obligation.

(g) Obligations Absolute. The Borrowers' obligations under this Section 2.14 shall be absolute and unconditional under any and all circumstances and irrespective of any setoff, counterclaim or defense to payment which the Borrowers may have or have had against the Letter of Credit Issuer, any Lender or any beneficiary of a Facility Letter

of Credit. The Borrowers further agree with the Letter of Credit Issuer and the Lenders that the Letter of Credit Issuer and the Lenders shall not be responsible for, and the Borrowers' Reimbursement Obligation in respect of any Facility Letter of Credit shall not be affected by, among other things, the validity or genuineness of documents or of any endorsements thereon, even if such documents should in fact prove to be in any or all respects invalid, fraudulent or forged, or any dispute between or among the Borrowers, any of their Affiliates, the beneficiary of any Facility Letter of Credit or any financing institution or other party to whom any Facility Letter of Credit may be transferred or any claims or defenses whatsoever of the Borrowers or of any of their Affiliates against the beneficiary of any Facility Letter of Credit or any such transferee. The Letter of Credit Issuer shall not be liable for any error, omission, interruption or delay in transmission, dispatch or delivery of any message or advice, however transmitted, in connection with any Facility Letter of Credit. The Borrowers agree that any action taken or omitted by the Letter of Credit Issuer or any Lender under or in connection with each Facility Letter of Credit and the related drafts and documents, if done without gross negligence or willful misconduct, shall be binding upon the Borrowers and shall not put the Letter of Credit Issuer or any Lender under any liability to the Borrowers.

(h) Actions of Letter of Credit Issuer. The Letter of Credit Issuer shall be entitled to rely, and shall be fully protected in relying, upon any Facility Letter of Credit, draft, writing, resolution, notice, consent, certificate, affidavit, letter, cablegram, telegram, facsimile, telex, teletype or electronic mail message, statement, order or other document believed by it to be genuine and correct and to have been signed, sent or made by the proper Person or Persons, and upon advice and statements of legal counsel, independent accountants and other experts selected by the Letter of Credit Issuer. The Letter of Credit Issuer shall be fully justified in failing or refusing to take any action under this Agreement unless it shall first have received such advice or concurrence of the Required Lenders as it reasonably deems appropriate or it shall first be indemnified to its reasonable satisfaction by the Lenders against any and all liability and expense which may be incurred by it by reason of taking or continuing to take any such action. Notwithstanding any other provision of this Section 2.14, the Letter of Credit Issuer shall in all cases be fully protected in acting, or in refraining from acting, under this Agreement in accordance with a request of the Required Lenders, and such request and any action taken or failure to act pursuant thereto shall be binding upon the Lenders and any future holders of a participation in any Facility Letter of Credit.

(i) Indemnification. The Borrowers hereby agree to indemnify and hold harmless each Lender, the Letter of Credit Issuer and the Administrative Agent, and their respective directors, officers, agents and employees from and against any and all claims and damages, losses, liabilities, costs or expenses (including reasonable counsel fees and disbursements) which such Lender, the Letter of Credit Issuer or the Administrative Agent may incur (or which may be claimed against such Lender, the Letter of Credit Issuer or the Administrative Agent by any Person whatsoever) by reason of or in connection with the issuance, execution and delivery or transfer of or payment or failure to pay under any Facility Letter of Credit or any actual or proposed use of any Facility Letter of Credit, including, without limitation, any claims, damages, losses, liabilities, costs or expenses (including reasonable counsel fees and disbursements) which the Letter

of Credit Issuer may incur (i) by reason of or in connection with the failure of any other Lender to fulfill or comply with its obligations to the Letter of Credit Issuer hereunder (but nothing herein contained shall affect any rights the Borrowers may have against any Defaulting Lender) or (ii) by reason of or on account of the Letter of Credit Issuer issuing any Facility Letter of Credit which specifies that the term "Beneficiary" included therein includes any successor by operation of law of the named Beneficiary, but which Facility Letter of Credit does not require that any drawing by any such successor Beneficiary be accompanied by a copy of a legal document, satisfactory to the Letter of Credit Issuer, evidencing the appointment of such successor Beneficiary; provided that the Borrowers shall not be required to indemnify any Lender, the Letter of Credit Issuer or the Administrative Agent for any claims, damages, losses, liabilities, costs or expenses to the extent, but only to the extent, caused by (x) the willful misconduct or gross negligence of the Letter of Credit Issuer in determining whether a request presented under any Facility Letter of Credit complied with the terms of such Facility Letter of Credit or (y) the Letter of Credit Issuer's failure to pay under any Facility Letter of Credit after the presentation to it of a request strictly complying with the terms and conditions of such Facility Letter of Credit. Nothing in this Section 2.14(i) is intended to limit the obligations of the Borrowers under any other provision of this Agreement.

(j) Lenders' Indemnification. Each Lender shall, ratably in accordance with its Pro Rata Share, indemnify the Letter of Credit Issuer, its affiliates and their respective directors, officers, agents and employees (to the extent not reimbursed by the Borrowers) against any cost, expense (including reasonable counsel fees and disbursements), claim, demand, action, loss or liability (except such as result from such indemnitees' gross negligence or willful misconduct or the Letter of Credit Issuer's failure to pay under any Facility Letter of Credit after the presentation to it of a request strictly complying with the terms and conditions of the Facility Letter of Credit) that such indemnitees may suffer or incur in connection with this Section 2.14 or any action taken or omitted by such indemnitees hereunder.

(k) Facility Letter of Credit Collateral Account. The Borrowers agree that they will, upon the request of the Administrative Agent or the Required Lenders and until the final expiration date of any Facility Letter of Credit and thereafter as long as any amount is payable to the Letter of Credit Issuer or the Lenders in respect of any Facility Letter of Credit, maintain a special collateral account pursuant to arrangements satisfactory to the Administrative Agent (the "Facility Letter of Credit Collateral Account"), in the name of Borrowers but under the sole dominion and control of the Administrative Agent, for the benefit of the Lenders. The Borrowers hereby pledge, assign and grant to the Administrative Agent, on behalf of and for the ratable benefit of the Lenders and the Letter of Credit Issuer, a security interest in all of the Borrowers' right, title and interest in and to all funds which may from time to time be on deposit in the Facility Letter of Credit Collateral Account to secure the prompt and complete payment and performance of the Obligations.

2.15 Replacement of Lender. If the Borrowers are required pursuant to Section 3.1 or 3.2 to make any additional payment to any Lender, or if any Lender declines to approve an amendment or waiver that is approved by the Required Lenders but that requires the consent of

all Lenders or all affected Lenders to become effective, or if any Lender becomes a Defaulting Lender (any Lender so affected an "Affected Lender"), the Borrowers may elect, if such amounts continue to be charged or such suspension is still effective, to replace such Affected Lender as a Lender party to this Agreement upon at least five (5) Business Days' prior written notice to such Affected Lender, which such notice shall specify an effective date for such replacement, which date shall not be later than fifteen (15) Business Days after the date such notice is given, *provided* that no Default or Event of Default shall have occurred and be continuing at the time of such replacement, and *provided further* that, concurrently with such replacement, (a) another bank or other entity which is reasonably satisfactory to the Borrowers and the Administrative Agent and, to the Borrowers' and the Administrative Agent's reasonable satisfaction, which other bank or entity does not suffer from and is not impacted by the issue or event causing the replacement of the Affected Lender, shall agree, as of such date, to purchase for cash at par the Advances and other Obligations due to the Affected Lender under this Agreement and the other Loan Documents pursuant to an assignment substantially in the form of Exhibit C and to become a Lender for all purposes under this Agreement and to assume all obligations of the Affected Lender to be terminated as of such date and to comply with the requirements of Section 12.3 applicable to assignments, and (b) the Borrowers shall pay to such Affected Lender in same day funds on the day of such replacement all interest, fees and other amounts then accrued but unpaid to such Affected Lender by the Borrowers hereunder to and including the date of termination, including without limitation payments due to such Affected Lender. If the Affected Lender shall refuse or fail to execute and deliver any such assignment prior to the effective date of such replacement, Administrative Agent may, but shall not be required to, execute and deliver such assignment in the name or and on behalf of Affected Lender, and irrespective of whether Administrative Agent executes and delivers such assignment, the Affected Lender shall be deemed to have executed and delivered such assignment. A Lender shall not be required to make any such assignment or be replaced if, prior thereto, as a result of a waiver by such Lender or otherwise, the circumstances entitling the Borrowers to require such assignment and replacement cease to apply.

2.16 Limitation of Interest. The Borrowers, the Administrative Agent and the Lenders intend to strictly comply with all applicable laws, including applicable usury laws. Accordingly, the provisions of this Section 2.16 shall govern and control over every other provision of this Agreement or any other Loan Document which conflicts or is inconsistent with this Section 2.16, even if such provision declares that it controls. As used in this Section 2.16, the term "interest" includes the aggregate of all charges, fees, benefits or other compensation which constitute interest under applicable law, *provided* that, to the maximum extent permitted by applicable law, (a) any non-principal payment shall be characterized as an expense or as compensation for something other than the use, forbearance or detention of money and not as interest, and (b) all interest at any time contracted for, reserved, charged or received shall be amortized, prorated, allocated and spread, in equal parts during the full term of this Agreement. In no event shall the Borrowers or any other Person be obligated to pay, or any Lender have any right or privilege to reserve, receive or retain, (x) any interest in excess of the maximum amount of nonusurious interest permitted under the applicable laws (if any) of the United States or of any applicable state, or (y) total interest in excess of the amount which such Lender could lawfully have contracted for, reserved, received, retained or charged had the interest been calculated for the full term of this Agreement at the Highest Lawful Rate. None of the terms and provisions contained

in this Agreement or in any other Loan Document which directly or indirectly relate to interest shall ever be construed without reference to this Section 2.16, or be construed to create a contract to pay for the use, forbearance or detention of money at an interest rate in excess of the Highest Lawful Rate.

2.17 Defaulting Lenders.

(a) Defaulting Lender Adjustments. Notwithstanding anything to the contrary contained in this Agreement, if any Lender becomes a Defaulting Lender, then, until such time as such Lender is no longer a Defaulting Lender, to the extent permitted by applicable law:

(i) Waivers and Amendments. Such Defaulting Lender's right to approve or disapprove any amendment, waiver or consent with respect to this Agreement shall be restricted as set forth in the definition of Required Lenders.

(ii) Defaulting Lender Waterfall. Any payment of principal, interest, fees or other amounts received by the Administrative Agent for the account of such Defaulting Lender (whether voluntary or mandatory, at maturity, pursuant to Article VII or otherwise) or received by the Administrative Agent from a Defaulting Lender pursuant to Section 11.1 shall be applied at such time or times as may be determined by the Administrative Agent as follows: *first*, to the payment of any amounts owing by such Defaulting Lender to the Administrative Agent hereunder; *second*, to the payment on a pro rata basis of any amounts owing by such Defaulting Lender to the Letter of Credit Issuer hereunder; *third*, to cash collateralize the Letter of Credit Issuer's Fronting Exposure with respect to such Defaulting Lender in accordance with Section 2.17(d); *fourth*, as the Borrowers may request (so long as no Default or Event of Default exists), to the funding of any Loan in respect of which such Defaulting Lender has failed to fund its portion thereof as required by this Agreement, as determined by the Administrative Agent; *fifth*, if so determined by the Administrative Agent and the Borrowers, to be held in a deposit account (including the Facility Letter of Credit Collateral Account) and released pro rata in order to (x) satisfy such Defaulting Lender's potential future funding obligations with respect to Loans under this Agreement and (y) cash collateralize the Letter of Credit Issuer's future Fronting Exposure with respect to such Defaulting Lender with respect to future Facility Letters of Credit issued under this Agreement, in accordance with Section 2.17(d); *sixth*, to the payment of any amounts owing to the Lenders, the Letter of Credit Issuer as a result of any judgment of a court of competent jurisdiction obtained by any Lender, the Letter of Credit Issuer against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *seventh*, so long as no Default or Event of Default exists, to the payment of any amounts owing to the Borrowers as a result of any judgment of a court of competent jurisdiction obtained by the Borrowers against such Defaulting Lender as a result of such Defaulting Lender's breach of its obligations under this Agreement; *eighth*, if so determined by the Administrative Agent, distributed to the Lenders other than the Defaulting Lender until the ratio of the Revolving

Exposures of such Lenders to the Aggregate Outstanding Revolving Exposures of all Revolving Lenders equals such ratio immediately prior to the Defaulting Lender's failure to fund any portion of any Loans or participations in Facility Letters of Credit; and *ninth*, to such Defaulting Lender or as otherwise directed by a court of competent jurisdiction; *provided* that if (x) such payment is a payment of the principal amount of any Loans or Facility Letter of Credit issuances in respect of which such Defaulting Lender has not fully funded its appropriate share, and (y) such Loans were made or the related Facility Letters of Credit were issued at a time when the conditions set forth in Section 4.2 were satisfied or waived, such payment shall be applied solely to pay the Credit Extensions of all Non-Defaulting Lenders on a pro rata basis prior to being applied to the payment of any Credit Extensions of such Defaulting Lender until such time as all Loans and funded and unfunded participations in Letter of Credit Obligations are held by the Lenders pro rata in accordance with the Commitments. Any payments, prepayments or other amounts paid or payable to a Defaulting Lender that are applied (or held) to pay amounts owed by a Defaulting Lender shall be deemed paid to and redirected by such Defaulting Lender, and each Lender irrevocably consents hereto.

(iii) Certain Fees.

(1) For commitment fees: No Defaulting Lender shall be entitled to receive any commitment fee for any period during which that Lender is a Defaulting Lender (and the Borrowers shall not be required to pay any such fee that otherwise would have been required to have been paid to that Defaulting Lender).

(2) Each Defaulting Lender shall be entitled to receive Letter of Credit Fees for any period during which that Lender is a Defaulting Lender only to the extent allocable to its ratable share of the stated amount of Facility Letters of Credit for which it has provided cash collateral pursuant to Section 2.17(d).

(3) With respect to any fee not required to be paid to any Defaulting Lender pursuant to clause (1) or (2) above, the Borrowers shall (x) pay to each Non-Defaulting Lender that portion of any such fee otherwise payable to such Defaulting Lender with respect to such Defaulting Lender's participation in Letter of Credit Obligations that has been reallocated to such Non-Defaulting Lender pursuant to clause (iv) below, (y) pay to the Letter of Credit Issuer the amount of any such fee otherwise payable to such Defaulting Lender to the extent allocable to the Letter of Credit Issuer's Fronting Exposure to such Defaulting Lender, and (z) not be required to pay the remaining amount of any such fee.

(iv) Reallocation of Participations to Reduce Fronting Exposure. All or any part of such Defaulting Lender's participation in Letter of Credit Obligations shall be reallocated among the Non-Defaulting Lenders in accordance with their

respective Pro Rata Shares (calculated without regard to such Defaulting Lender's Revolving Commitment) but only to the extent that (x) the conditions set forth in Section 4.2 are satisfied at the time of such reallocation (and, unless the Borrowers shall have otherwise notified the Administrative Agent at such time, the Borrowers shall be deemed to have represented and warranted that such conditions are satisfied at such time), and (y) such reallocation does not cause the aggregate Revolving Exposure of any Non-Defaulting Lender to exceed such Non-Defaulting Lender's Revolving Commitment. No reallocation hereunder shall constitute a waiver or release of any claim of any party hereunder against a Defaulting Lender arising from that Lender having become a Defaulting Lender, including any claim of a Non-Defaulting Lender as a result of such Non-Defaulting Lender's increased exposure following such reallocation.

(v) Cash Collateral. If the reallocation described in clause (iv) above cannot, or can only partially, be effected, the Borrowers shall, without prejudice to any right or remedy available to it hereunder or under law, cash collateralize the Letter of Credit Issuer's Fronting Exposure in accordance with the procedures set forth in Section 2.17(d).

(b) Defaulting Lender Cure. If the Borrowers, the Administrative Agent and the Letter of Credit Issuer agree in writing to allow a Defaulting Lender to cure its default hereunder ("Permission to Cure"), the Administrative Agent will so notify the parties hereto, whereupon as of the effective date specified in such notice and subject to any conditions set forth therein (which may include arrangements with respect to any cash collateral), such Lender will, to the extent applicable, purchase at par that portion of outstanding Loans of the other Lenders or take such other actions as the Administrative Agent may determine to be necessary to cause the Loans and funded and unfunded participations in Facility Letters of Credit to be held pro rata by the Lenders in accordance with the Revolving Commitments (without giving effect to Section 2.17(a)(iv)), whereupon such Lender will cease to be a Defaulting Lender; *provided* that no adjustments will be made retroactively with respect to fees accrued or payments made by or on behalf of the Borrowers while that Lender was a Defaulting Lender; and *provided*, *further*, that except to the extent otherwise expressly agreed by the affected parties, no change hereunder from Defaulting Lender to Lender will constitute a waiver or release of any claim of any party hereunder arising from that Lender's having been a Defaulting Lender. Notwithstanding the foregoing, a Defaulting Lender shall be allowed to cure its default hereunder in accordance with the foregoing requirements of this Section 2.17(b) without Permission to Cure if (i) such default arises out of such Lender's failure to fund all or any portion of its Loans, or its failure to pay the Administrative Agent or any other Lender any amount required hereunder, within one (1) Business Day after the date due; and (ii) such default has not occurred more than twice before the pending default to be cured.

(c) New Facility Letters of Credit. So long as any Lender is a Defaulting Lender, the Letter of Credit Issuer shall not be required to issue, extend, renew or increase any Facility Letter of Credit unless it is satisfied that it will have no Fronting Exposure after giving effect thereto.

(d) Cash Collateral. At any time that there shall exist a Defaulting Lender, within one (1) Business Day following the written request of the Administrative Agent or the Letter of Credit Issuer (with a copy to the Administrative Agent) the Borrowers shall cash collateralize the Letter of Credit Issuer's Fronting Exposure with respect to such Defaulting Lender (determined after giving effect to Section 2.17(a)(iv) and any cash collateral provided by such Defaulting Lender) in an amount not less than the Minimum Collateral Amount.

(i) Grant of Security Interest. The Borrowers, and to the extent provided by any Defaulting Lender, such Defaulting Lender, hereby grant to the Administrative Agent, for the benefit of the Letter of Credit Issuer, and agree to maintain, a first priority security interest in all cash collateral as security for the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Obligations, to be applied pursuant to clause (ii) below. If at any time the Administrative Agent determines that cash collateral is subject to any right or claim of any Person other than the Administrative Agent and the Letter of Credit Issuer as herein provided, or that the total amount of such cash collateral is less than the Minimum Collateral Amount, the Borrowers will, promptly upon demand by the Administrative Agent, pay or provide to the Administrative Agent additional cash collateral in an amount sufficient to eliminate such deficiency (after giving effect to any cash collateral provided by the Defaulting Lender).

(ii) Application. Notwithstanding anything to the contrary contained in this Agreement, cash collateral provided under this Section 2.17 in respect of Facility Letters of Credit shall be applied to the satisfaction of the Defaulting Lender's obligation to fund participations in respect of Letter of Credit Obligations (including, as to cash collateral provided by a Defaulting Lender, any interest accrued on such obligation) for which the cash collateral was so provided, prior to any other application of such Property as may otherwise be provided for herein.

(iii) Termination of Requirement. Cash collateral (or the appropriate portion thereof) provided to reduce the Letter of Credit Issuer's Fronting Exposure shall no longer be required to be held as cash collateral pursuant to this Section 2.17(d) following (i) the elimination of the applicable Fronting Exposure (including by the termination of Defaulting Lender status of the applicable Lender), or (ii) the determination by the Administrative Agent and the Letter of Credit Issuer that there exists excess cash collateral; provided that, subject to this Section 2.17 the Person providing cash collateral and the Letter of Credit Issuer may agree that cash collateral shall be held to support future anticipated Fronting Exposure or other obligations and provided further that to the extent that such cash collateral was provided by the Borrower, such cash collateral shall remain subject to the security interest granted pursuant to the Loan Documents.

ARTICLE III

YIELD PROTECTION; TAXES

3.1 Yield Protection. If, on or after the date of this Agreement, there occurs any Change in Law which:

(a) subjects any Lender or any applicable Lending Installation, the Letter of Credit Issuer, or the Administrative Agent to any Taxes (other than with respect to Indemnified Taxes, Excluded Taxes, and Other Taxes) on its loans, loan principal, letters of credit, commitments, or other obligations, or its deposits, reserves, other liabilities or capital attributable thereto, or

(b) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit, liquidity or similar requirement against assets of, deposits with or for the account of, or credit extended by, any Lender or any applicable Lending Installation or the Letter of Credit Issuer), or

(c) imposes any other condition (other than Taxes) the result of which is to increase the cost to any Lender or any applicable Lending Installation or the Letter of Credit Issuer of making, funding or maintaining its Loans, or of issuing or participating in Facility Letters of Credit, or reduces any amount receivable by any Lender or any applicable Lending Installation or the Letter of Credit Issuer in connection with its Loans, Facility Letters of Credit or participations therein, or requires any Lender or any applicable Lending Installation or the Letter of Credit Issuer to make any payment calculated by reference to the amount of Loans, Facility Letters of Credit or participations therein held or interest or Letter of Credit Fees received by it, by an amount deemed material by such Lender or the Letter of Credit Issuer as the case may be,

and the result of any of the foregoing is to increase the cost to such Person of making or maintaining its Loans or Revolving Commitment or of issuing or participating in Facility Letters of Credit or to reduce the amount received by such Person in connection with such Loans or Revolving Commitment, Facility Letters of Credit or participations therein, then, within fifteen (15) days after demand by such Person, the Borrowers shall pay such Person, as the case may be, such additional amount or amounts as will compensate such Person for such increased cost or reduction in amount received. Failure or delay on the part of any such Person to demand compensation pursuant to this Section 3.1 shall not constitute a waiver of such Person's right to demand such compensation; *provided* that the Borrowers shall not be required to compensate a Person pursuant to this Section 3.1 for any increased costs or reductions suffered more than 270 days prior to the date that such Person notifies the Borrowers of the Change in Law giving rise to such increased costs or reductions and of such Person's intention to claim compensation therefor; *provided further*, that if the Change in Law giving rise to such increased costs or reductions is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

3.2 Changes in Capital Adequacy Regulations. If a Lender or the Letter of Credit Issuer determines that the amount of capital or liquidity required or expected to be maintained by

such Lender or the Letter of Credit Issuer, any Lending Installation of such Lender or the Letter of Credit Issuer, or any corporation or holding company controlling such Lender or the Letter of Credit Issuer is increased as a result of (a) a Change in Law or (b) any change on or after the date of this Agreement in the Risk-Based Capital Guidelines, then, within fifteen (15) days after demand by such Lender or the Letter of Credit Issuer, the Borrowers shall pay such Lender or the Letter of Credit Issuer the amount necessary to compensate for any shortfall in the rate of return on the portion of such increased capital or liquidity which such Lender or the Letter of Credit Issuer determines is attributable to this Agreement, its Term Loans, its Revolving Exposure or its Revolving Commitment to make Revolving Loans and issue or participate in Facility Letters of Credit, as the case may be, hereunder (after taking into account such Lender's or the Letter of Credit Issuer's policies as to capital adequacy or liquidity), in each case that is attributable to such Change in Law or change in the Risk-Based Capital Guidelines, as applicable. Failure or delay on the part of such Lender or the Letter of Credit Issuer to demand compensation pursuant to this Section 3.2 shall not constitute a waiver of such Lender's or the Letter of Credit Issuer's right to demand such compensation; *provided* that the Borrowers shall not be required to compensate any Lender or the Letter of Credit Issuer pursuant to this Section 3.2 for any shortfall suffered more than 270 days prior to the date that such Lender or the Letter of Credit Issuer notifies the Borrowers of the Change in Law or change in the Risk-Based Capital Guidelines giving rise to such shortfall and of such Lender's or the Letter of Credit Issuer's intention to claim compensation therefor; *provided further*, that if the Change in Law or change in Risk-Based Capital Guidelines giving rise to such shortfall is retroactive, then the 270-day period referred to above shall be extended to include the period of retroactive effect thereof.

3.3 Taxes.

(a) Any and all payments by or on account of any obligation of any Borrower under any Loan Document shall be made without deduction or withholding for any Taxes, except as required by applicable law. If any applicable law requires the deduction or withholding of any Tax from any such payment, then the applicable Borrower shall be entitled to make such deduction or withholding and shall timely pay the full amount deducted or withheld to the relevant Governmental Authority in accordance with applicable law and, if such Tax is an Indemnified Tax or Other Tax, then the sum payable by the applicable Borrower shall be increased as necessary so that after such deduction or withholding has been made (including such deductions and withholdings applicable to additional sums payable under this Section 3.3) the applicable Lender, the Letter of Credit Issuer or the Administrative Agent receives an amount equal to the sum it would have received had no such deduction or withholding been made.

(b) The Borrowers shall timely pay to the relevant Governmental Authority in accordance with applicable law or at the option of the Administrative Agent timely reimburse it for the payment of, any Other Taxes.

(c) The Borrowers shall indemnify the Lender, the Letter of Credit Issuer or the Administrative Agent, within fifteen (15) days after demand therefor, for the full amount of any Indemnified Taxes and Other Taxes (including Indemnified Taxes and Other Taxes imposed or asserted on or attributable to amounts payable under this Section 3.3) payable or paid by such Lender, the Letter of Credit Issuer or the Administrative

Agent or required to be withheld or deducted from a payment to such Lender, the Letter of Credit Issuer or the Administrative Agent and any reasonable expenses arising therefrom or with respect thereto, whether or not such Indemnified Taxes and Other Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority.

(d) Each Lender shall severally indemnify the Administrative Agent, within fifteen (15) days after demand therefor, for (i) any Indemnified Taxes and Other Taxes attributable to such Lender (but only to the extent that any Borrower has not already indemnified the Administrative Agent for such Indemnified Taxes and Other Taxes and without limiting the obligation of the Borrowers to do so), (ii) any Taxes attributable to such Lender's failure to comply with the provisions of Section 12.2(c) relating to the maintenance of a Participant Register, and (iii) any Excluded Taxes attributable to such Lender, in each case, that are payable or paid by the Administrative Agent in connection with any Loan Document, and any reasonable expenses arising therefrom or with respect thereto, whether or not such Taxes were correctly or legally imposed or asserted by the relevant Governmental Authority. Each Lender hereby authorizes the Administrative Agent to set off and apply any and all amounts at any time owing to such Lender under any Loan Document or otherwise payable by the Administrative Agent to the Lender from any other source against any amount due to the Administrative Agent under this paragraph (d).

(e) As soon as practicable after any payment of Taxes by any Borrower to a Governmental Authority pursuant to this Section 3.3, such Borrower shall deliver to the Administrative Agent the original or a certified copy of a receipt issued by such Governmental Authority evidencing such payment, a copy of the return reporting such payment or other evidence of such payment reasonably satisfactory to the Administrative Agent.

(f) Any Lender that is entitled to an exemption from or reduction of withholding Tax with respect to payments made under any Loan Document shall deliver to the Borrowers and the Administrative Agent, at the time or times reasonably requested by the Borrowers or the Administrative Agent, such properly completed and executed documentation reasonably requested by the Borrowers or the Administrative Agent as will permit such payments to be made without withholding or at a reduced rate of withholding. In addition, any Lender, if reasonably requested by the Borrowers or the Administrative Agent, shall deliver such other documentation prescribed by applicable law or reasonably requested by the Borrowers or the Administrative Agent as will enable the Borrowers or the Administrative Agent to determine whether or not such Lender is subject to backup withholding or information reporting requirements.

Without limiting the generality of the foregoing,

(1) any Lender that is a United States Person for U.S. federal income Tax purposes shall deliver to the Borrowers and the Administrative Agent on or prior to the date on which such Lender becomes a Lender under this Agreement (and from time to time thereafter

upon the reasonable request of the Borrowers or the Administrative Agent), executed originals of IRS Form W-9 certifying that such Lender is exempt from U.S. federal backup withholding Tax;

(2) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), whichever of the following is applicable:

a) in the case of a Non-U.S. Lender claiming the benefits of an income Tax treaty to which the United States is a party (x) with respect to payments of interest under any Loan Document, executed copies of IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "interest" article of such Tax treaty and (y) with respect to any other applicable payments under any Loan Document, IRS Form W-8BEN or IRS Form W-8BEN-E establishing an exemption from, or reduction of, U.S. federal withholding Tax pursuant to the "business profits" or "other income" article of such Tax treaty;

b) executed copies of IRS Form W-8ECI;

c) in the case of a Non-U.S. Lender claiming the benefits of the exemption for portfolio interest under Section 881(c) of the Code, (x) a certificate to the effect that such Non-U.S. Lender is not a "bank" within the meaning of Section 881(c)(3)(A) of the Code, a "10 percent shareholder" of any Borrower within the meaning of Section 881(c)(3)(B) of the Code, or a "controlled foreign corporation" related to any Borrower as described in Section 881(c)(3)(C) of the Code and (y) executed copies of IRS Form W- 8BEN or IRS Form W-8BEN-E; or

d) to the extent a Non-U.S. Lender is not the beneficial owner, executed copies of IRS Form W-8IMY, accompanied by IRS Form W-8ECI, IRS Form W-8BEN, IRS Form W-8BEN-E, IRS Form W-8IMY or IRS Form W-9, and/or other certification documents from each beneficial owner, as applicable.

(3) any Non-U.S. Lender shall, to the extent it is legally entitled to do so, deliver to the Borrowers and the Administrative Agent (in such number of copies as shall be requested by the recipient) on or prior to the date on which such Non-U.S. Lender becomes a Lender under

this Agreement (and from time to time thereafter upon the reasonable request of the Borrowers or the Administrative Agent), executed originals of any other form prescribed by applicable law as a basis for claiming exemption from or a reduction in U.S. federal withholding Tax, duly completed, together with such supplementary documentation as may be prescribed by applicable law to permit the Borrowers or the Administrative Agent to determine the withholding or deduction required to be made; and

(4) if a payment made to a Lender under any Loan Document would be subject to U.S. federal withholding Tax imposed by FATCA if such Lender were to fail to comply with the applicable reporting requirements of FATCA (including those contained in Section 1471(b) or 1472(b) of the Code, as applicable), such Lender shall deliver to the Borrowers and the Administrative Agent at the time or times prescribed by law and at such time or times reasonably requested by the Borrowers or the Administrative Agent such documentation prescribed by applicable law (including as prescribed by Section 1471(b)(3)(C)(i) of the Code) and such additional documentation reasonably requested by the Borrowers or the Administrative Agent as may be necessary for the Borrowers and the Administrative Agent to comply with their obligations under FATCA and to determine that such Lender has complied with such Lender's obligations under FATCA or to determine the amount, if any, to deduct and withhold from such payment. Solely for purposes of this clause (D), "FATCA" shall include any amendments made to FATCA after the date of this Agreement.

(i) Each Lender agrees that if any form or certification it previously delivered expires or becomes obsolete or inaccurate in any respect, it shall update such form or certification or promptly notify the Borrowers and the Administrative Agent in writing of its legal inability to do so.

(g) If any party determines, in its sole discretion exercised in good faith, that it has received a refund of any Taxes as to which it has been indemnified pursuant to this Section 3.3 (including by the payment of additional amounts pursuant to this Section 3.3), it shall pay to the indemnifying party an amount equal to such refund (but only to the extent of indemnity payments made under this Section 3.3 with respect to the Taxes giving rise to such refund), net of all out-of-pocket expenses (including Taxes) of such indemnified party and without interest (other than any interest paid by the relevant Governmental Authority with respect to such refund). Such indemnifying party, upon the request of such indemnified party, shall repay to such indemnified party the amount paid over pursuant to this paragraph (g) (plus any penalties, interest or other charges imposed by the relevant Governmental Authority) in the event that such indemnified party is required to repay such refund to such Governmental Authority. Notwithstanding anything to the contrary in this paragraph (g), in no event will the indemnified party be required to pay any amount to an indemnifying party pursuant to this paragraph (g) the payment of which would place the indemnified party in a less favorable net after-Tax position than

the indemnified party would have been in if the indemnification payments or additional amounts giving rise to such refund had never been paid. This paragraph shall not be construed to require any indemnified party to make available its Tax returns (or any other information relating to its Taxes that it deems confidential) to the indemnifying party or any other Person.

(h) Each party's obligations under this Section 3.3 shall survive the resignation or replacement of the Administrative Agent or any assignment of rights by, or the replacement of, a Lender, the termination of the Revolving Commitments and the repayment, satisfaction or discharge of all obligations under any Loan Document.

ARTICLE IV

CONDITIONS PRECEDENT

4.1 Initial Credit Extension. The Lenders shall not be required to make the initial Credit Extension hereunder unless each of the following conditions is satisfied:

(a) The Administrative Agent shall have received duly executed counterparts of all of the Loan Documents, including this Agreement, the Notes and the Collateral Documents.

(b) The Administrative Agent shall have received a certificate, signed by an Authorized Officer, stating that on the date of the initial Credit Extension (i) no Default or Event of Default has occurred and is continuing and (ii) the representations and warranties contained in Article V are (x) with respect to any representations or warranties that contain a materiality qualifier, true and correct in all respects as of such date, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all respects on and as of such earlier date and (y) with respect to any representations or warranties that do not contain a materiality qualifier, true and correct in all material respects as of such date, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects on and as of such earlier date.

(c) The Administrative Agent shall have received a written opinion of the Borrowers' counsel, in form and substance acceptable to the Administrative Agent, addressed to the Lenders, substantially covering the opinions set forth in Exhibit A and such other opinions reasonably required by the Administrative Agent. The Borrowers' counsel shall be reasonably acceptable to the Administrative Agent.

(d) The Administrative Agent and the Lenders shall be satisfied in all respects with (i) the terms and conditions of, and the structure of, the Banker Steel Acquisition, and (ii) the Banker Steel Acquisition Documents.

(e) The Administrative Agent shall have received such documents and certificates relating to the organization, existence and good standing of each Borrower and each initial Guarantor, the authorization of the transactions contemplated hereby and

any other legal matters relating to each Borrower and such Guarantors, the Loan Documents or the transactions contemplated hereby, all in form and substance satisfactory to the Administrative Agent and its counsel and as further described in the list of closing documents attached as Exhibit H.

(f) The Administrative Agent shall have received any and all fees, costs and expenses owing to it.

(g) The Administrative Agent shall have received all fees and other amounts due and payable on or prior to the Effective Date, including, to the extent invoiced, reimbursement or payment of all out-of-pocket expenses required to be reimbursed or paid by the Borrowers hereunder.

(h) There shall not have occurred a material adverse change (i) in the business, Property, liabilities (actual and contingent), operations or condition (financial or otherwise), results of operations, or prospects of the Borrowers and their Subsidiaries taken as a whole, since January 2, 2021 or (ii) in the facts and information regarding such entities as represented by such entities to date.

(i) The Administrative Agent shall have received evidence of all governmental, equity holder and third party consents and approvals necessary in connection with the contemplated financing and all applicable waiting periods shall have expired without any action being taken by any authority that would be reasonably likely to restrain, prevent or impose any material adverse conditions on the Borrowers and their Subsidiaries, taken as a whole, and no law or regulation shall be applicable which in the reasonable judgment of the Administrative Agent could have such effect.

(j) No action, suit, investigation or proceeding is pending or, to the knowledge of Borrowers, threatened in any court or before any arbitrator or Governmental Authority that would reasonably be expected to result in a Material Adverse Effect or which seeks to prevent, enjoin or delay the making of any Credit Extensions.

(k) The Administrative Agent shall have received: (i) pro forma financial statements giving effect to the initial Credit Extensions contemplated hereby and the Banker Steel Acquisition, which demonstrate, in the Administrative Agent's reasonable judgment, together with all other information then available to the Administrative Agent, that the Borrowers can repay their debts and satisfy their other obligations as and when they become due, and can comply with the financial covenants set forth in Section 6.19, and (ii) such information as the Administrative Agent may reasonably request to confirm the tax, legal, and business assumptions made in such pro forma financial statement.

(l) The Administrative Agent shall have received evidence of current insurance coverage in form, scope and substance reasonably satisfactory to the Administrative Agent and otherwise in compliance with the terms of Sections 5.18 and 6.6.

(m) The Administrative Agent shall have received a preliminary title report issued by Title Insurer showing the condition of title of each real property listed on Schedule 5.23 hereto with such real property's legal description, a copy of all documents listed as exceptions to said title report, and a copy of all documents that evidence the vesting of the ownership of such real property.

(n) The Administrative Agent shall have received Title Insurer's commitment to issue a Loan Policy of Title Insurance, with a liability limit of not less than the aggregate face amount of the Notes, insuring Administrative Agent's interest under the Collateral Documents applicable to each of the real properties listed on Schedule 5.23, for the ratable benefit of Lenders, together with such reinsurance or coinsurance agreements and endorsements to said policy as Administrative Agent may require, for each of the real properties listed on Schedule 5.23.

(o) The Administrative Agent shall have received a current survey of each of the real properties listed on Schedule 5.23, other than the properties governed by Section 4.3, including dimensions, delineations and locations of all easements thereto, certified to Administrative Agent and in form and substance acceptable to Administrative Agent, and satisfactory to Title Insurer if required by it.

(p) The Administrative Agent shall have received Title Affidavits for each of the real properties listed on Schedule 5.23, and Survey Affidavits for each of the real properties listed on Schedule 5.23, other than the properties governed by Section 4.3, in each case in form and substance acceptable to Administrative Agent, and satisfactory to Title Insurer if required by it.

(q) The Administrative Agent shall have received evidence that each of the real properties listed on Schedule 5.23 is not located in an area designated by the Secretary of Housing and Urban Development as a special flood hazard area, or that flood hazard insurance coverage acceptable to Administrative Agent in its sole discretion is in place.

(r) The Administrative Agent shall have received (a) copies of a Phase I report with respect to each of the real properties listed on Schedule 5.23, each prepared by an independent environmental consultant acceptable to Administrative Agent, which reports shall be addressed to Administrative Agent or accompanied by a reliance letter addressed to Administrative Agent, and (b) insurance against environmental risks with respect to the real properties listed on Schedule 5.23 in form and substance satisfactory to Administrative Agent.

(s) The Administrative Agent shall have received evidence, in form and substance acceptable to Administrative Agent, and Title Insurer if required by it, that each of the real properties listed on Schedule 5.23 is properly zoned for its current use and/or intended use.

(t) The Administrative Agent shall have received evidence of a certificate of occupancy and all permits required for the occupancy and use of each of the real properties listed on Schedule 5.23.

(u) The Administrative Agent shall have received evidence, in form and substance acceptable to Administrative Agent, and Title Insurer if required by it, that all real estate and property taxes for each of the real properties listed on Schedule 5.23 have been paid in full.

(v) The Administrative Agent shall have received, for each of the real properties listed on Schedule 5.23, a written appraisal report prepared by an appraiser acceptable to Administrative Agent in its sole discretion and prepared in compliance with applicable regulatory requirements including, without limitation, the Financial Institutions Recovery, Reform and Enforcement Act of 1989, as amended from time to time, and subject to Administrative Agent's customary independent appraisal requirements, setting forth the fair market value of the applicable real property.

(w) The Administrative Agent shall have received the results of a recent lien search in each of the jurisdictions where the initial Borrowers are organized, and such search shall reveal no Liens on any of the assets of the initial Borrowers except for Liens permitted by Section 6.14 or discharged on or prior to the Effective Date pursuant to a payoff letter or other documentation satisfactory to the Administrative Agent.

(x) The Administrative Agent shall have received copies of all leases related to any of the real properties listed on Schedule 5.23.

(y) The Administrative Agent shall have received such subordination agreements and tenant estoppel certificates as Administrative Agent may request with respect to any tenants for the real properties listed on Schedule 5.23.

(z) The Administrative Agent shall have received a written appraisal report prepared by an appraiser acceptable to Administrative Agent in its sole discretion, subject to Administrative Agent's customary independent appraisal requirements, setting forth the fair market value of all equipment owned by Borrowers.

(aa) The Administrative Agent shall have received a payoff letter and UCC-3 termination statements from Wells Fargo Bank, N.A. and TCW Asset Management Company LLC, in each case acceptable to Administrative Agent in its sole discretion.

(bb) Each document (including any Uniform Commercial Code financing statement) required by the Collateral Documents or under law or reasonably requested by the Administrative Agent to be filed, registered or recorded in order to create in favor of the Administrative Agent, for the benefit of the Lenders, a perfected Lien on the Collateral described herein, prior and superior in right to any other Person, shall be in proper form for filing, registration or recordation.

(cc) Upon the reasonable request of any Lender made at least ten days prior to the Effective Date, each Borrower must have provided to such Lender the documentation

and other information so requested in connection with applicable "know your customer" and anti-money-laundering rules and regulations, including the PATRIOT Act, in each case at least five days prior to the Effective Date.

(dd) At least five Business Days prior to the Effective Date, if a Borrower qualifies as a "legal entity customer" under the Beneficial Ownership Regulation, such Borrower must deliver a Beneficial Ownership Certification in relation to such Borrower.

(ee) Borrowers shall have satisfied any and all of Administrative Agent's loan opening requirements or conditions, including without limitation to execution of such additional agreements, instruments, documents, certificates, account opening forms, signature cards, and other instruments as Administrative Agent may require or request.

4.2 Each Credit Extension. The Lenders shall not (except as otherwise set forth in Section 2.14(e) with respect to Revolving Loans made for any Reimbursement Obligations for draws under a Facility Letter of Credit) be required to make any Credit Extension unless on the applicable Borrowing Date:

(a) There exists no Default or Event of Default, nor would a Default or Event of Default result from such Credit Extension.

(b) The representations and warranties contained in Article V are (i) with respect to any representations or warranties that contain a materiality qualifier, true and correct in all respects as of such Borrowing Date, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all respects on and as of such earlier date and (ii) with respect to any representations or warranties that do not contain a materiality qualifier, true and correct in all material respects as of such Borrowing Date, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects on and as of such earlier date.

(c) No event shall have occurred and no condition shall exist which has or which could be reasonably expected to have a Material Adverse Effect.

(d) Administrative Agent shall have received a Borrowing Notice or request for issuance of a Facility Letter of Credit, as applicable.

(e) Borrowers shall have satisfied any and all of Administrative Agent's reasonable and customary requirements or conditions, including without limitation the execution of such additional agreements, instruments, documents, certificates, account opening forms, signature cards, and other instruments as Administrative Agent may require or request.

Each Borrowing Notice or request for issuance of a Facility Letter of Credit with respect to each such Credit Extension shall constitute a representation and warranty by Borrowers that the conditions contained in this Section 4.2 have been satisfied.

4.3 Surveys. Prior to any Credit Extension after the date which is ninety (90) days after the date hereof, Borrower shall deliver to the Administrative Agent a current survey of each of the real properties listed on Schedule 5.23 and identified below, including dimensions, delineations and locations of all easements thereto, certified to Administrative Agent and in form and substance acceptable to Administrative Agent, and satisfactory to Title Insurer if required by it. It shall be an Event of Default if Borrower fails to deliver such surveys with such period with respect to the property located on Buchanan St. in Phoenix, AZ and the properties located in Eloy, AZ, Bellemont, AZ, Stockton, CA, Houston, TX and Ottawa, KS.

4.4 Collateral Access Agreements. Prior to any Credit Extension after the date which is thirty (30) days after the date hereof, Borrower shall deliver to the Administrative Agent a waiver and agreement from the lessor of each of the real properties listed on Schedule 4.4 in form and substance acceptable to Administrative Agent. It shall be an Event of Default if Borrower fails to deliver each such agreement with such period.

4.5 Equipment Appraisals. Prior to any Credit Extension after the date which is ninety (90) days after the date hereof, Administrative Agent shall have receive updated appraisals of the equipment acquired in the Banker Steel Acquisition in form and substance acceptable to Administrative Agent. It shall be an Event of Default if Administrative Agent does not receive any such appraisal with such period.

ARTICLE V

REPRESENTATIONS AND WARRANTIES

The Borrowers represent and warrant to the Lenders that:

5.1 Existence and Standing. Each of the Borrowers and their Subsidiaries is a corporation, partnership or limited liability company duly and properly incorporated or formed, as the case may be, validly existing and (to the extent such concept applies to such entity) in good standing under the laws of its jurisdiction of incorporation or organization and has all requisite authority to conduct its business in each jurisdiction in which its business is conducted.

5.2 Authorization and Validity. Each Borrower, Guarantor, and Subsidiary of Holdings has the power and authority and legal right to execute and deliver the Loan Documents to which it is a party and to perform its obligations thereunder. The execution and delivery by each Borrower, Guarantor, and Subsidiary of Holdings of the Loan Documents to which it is a party and the performance of its obligations thereunder have been duly authorized by proper corporate or limited liability company proceedings, and the Loan Documents constitute legal, valid and binding obligations of the Borrowers, Guarantors, and Subsidiaries of Holdings party thereto enforceable against the Borrowers, Guarantors, and Subsidiaries of Holdings in accordance with their terms, except as enforceability may be limited by bankruptcy, insolvency or similar laws affecting the enforcement of creditors' rights generally.

5.3 No Conflict; Government Consent. Neither the execution and delivery by the Borrowers and Guarantors of the Loan Documents to which each is a party, nor the

consummation of the transactions therein contemplated, nor compliance with the provisions thereof will violate (i) any law, rule, regulation, order, writ, judgment, injunction, decree or award binding on the Borrowers or any of their Subsidiaries or (ii) the Borrowers' or any Subsidiary's articles or certificate of incorporation, partnership agreement, certificate of partnership, articles or certificate of organization, by-laws, or operating or other management agreement, as the case may be, or (iii) the provisions of any indenture, instrument or agreement to which the Borrowers or any of their Subsidiaries is a party or is subject, or by which it, or its Property, is bound, or conflict with or constitute a default thereunder, or result in, or require, the creation or imposition of any Lien in, of or on the Property of the Borrowers or a Subsidiary pursuant to the terms of any such indenture, instrument or agreement. No order, consent, adjudication, approval, license, authorization, or validation of, or filing, recording or registration with, or exemption by, or other action in respect of any governmental or public body or authority, or any subdivision thereof, which has not been obtained by the Borrowers or any of their Subsidiaries, is required to be obtained by the Borrowers or any of their Subsidiaries in connection with the execution and delivery of the Loan Documents, the borrowings under this Agreement, the payment and performance by the Borrowers and Guarantors of the Obligations or the legality, validity, binding effect or enforceability of any of the Loan Documents.

5.4 Financial Statements. The January 2, 2021 audited consolidated financial statements of Holdings and its Subsidiaries were prepared in accordance with GAAP in effect on the date such statements were prepared, and the unaudited financial statements of Holdings and its Subsidiaries dated as of April 3, 2021 were prepared on a materially consistent basis with prior financial statements; and each such financial statements fairly present the consolidated financial condition and operations of Holdings and its Subsidiaries at such dates and the consolidated results of their operations for the periods then ended.

5.5 Material Adverse Change. Since the date of the most recent audited financial statements delivered to the Administrative Agent there has been no change in the business, Property, prospects, condition (financial or otherwise) or results of operations of Holdings and its Subsidiaries which could reasonably be expected to have a Material Adverse Effect.

5.6 Taxes. The Borrowers and their Subsidiaries have filed all United States federal and state income Tax returns and all other material Tax returns which are required to be filed by them and have paid all United States federal and state income Taxes and all other material Taxes due from the Borrowers and their Subsidiaries, including, without limitation, pursuant to any assessment received by the Borrowers or any of their Subsidiaries, except such Taxes, if any, as are being contested in good faith and as to which adequate reserves have been provided in accordance with GAAP and as to which no Lien exists. No Tax Liens have been filed and no claims are being asserted with respect to any such Taxes. The charges, accruals and reserves on the books of Holdings and its Subsidiaries in respect of any Taxes or other governmental charges are adequate.

5.7 Litigation and Contingent Obligations. There is no litigation, arbitration, governmental investigation, proceeding or inquiry pending or, to the knowledge of any of their officers, threatened against or affecting a Borrower or any of its Subsidiaries which could reasonably be expected to have a Material Adverse Effect or which seeks to prevent, enjoin or delay the making of any Credit Extensions. Other than any liability incident to any litigation,

arbitration or proceeding which could not reasonably be expected to have a Material Adverse Effect, no Borrower has material Contingent Obligations not provided for or disclosed in the financial statements referred to in Section 5.4.

5.8 Subsidiaries. Schedule 5.8 contains an accurate list of all Subsidiaries of Holdings as of the date of this Agreement, setting forth their respective jurisdictions of organization and the percentage of their respective capital stock or other ownership interests owned by the Borrowers or other Subsidiaries. All of the issued and outstanding shares of capital stock or other ownership interests of such Subsidiaries have been (to the extent such concepts are relevant with respect to such ownership interests) duly authorized and issued and are fully paid and non-assessable.

5.9 ERISA. With respect to each Plan, each Borrower, each Subsidiary and all ERISA Affiliates have paid all required minimum contributions and installments on or before the due dates provided under Section 430(j) of the Code and could not reasonably be subject to a lien under Section 430(k) of the Code or Title IV of ERISA. Neither any Borrower, any Subsidiary nor any ERISA Affiliate has filed, pursuant to Section 412(c) of the Code or Section 302(c) of ERISA, an application for a waiver of the minimum funding standard. No ERISA Event has occurred or is reasonably expected to occur that, when taken together with all other such ERISA Events for which liability is reasonably expected to occur, could reasonably be expected to result in a Material Adverse Effect.

5.10 Accuracy of Information.

(a) No information, exhibit or report furnished by the Borrowers or any of their Subsidiaries to the Administrative Agent or to any Lender in connection with the negotiation of, or compliance with, the Loan Documents contained any material misstatement of fact or omitted to state a material fact or any fact necessary to make the statements contained therein not misleading.

(b) As of the Effective Date and as of each date on which a notice is required under Section 6.3(f), the information included in any Beneficial Ownership Certification is true and correct in all respects.

5.11 Regulations; Margin Stock. Neither any Borrower nor any Subsidiary owns or is carrying any Margin Stock or is engaged principally or as one of its important activities, in the business of purchasing or carrying Margin Stock, or extending credit for the purpose of purchasing or carrying any Margin Stock. Neither the making of any Loans nor the use of the proceeds of any Loan will violate, or be inconsistent with, the provisions of Regulation T, U or X of the Board of Governors of the Federal Reserve System or any other regulation of the Board of Governors of the Federal Reserve System.

5.12 Material Agreements. None of the Borrowers nor any Subsidiary of any Borrower is a party to any agreement or instrument or subject to any charter or other corporate restriction which could reasonably be expected to have a Material Adverse Effect. None of the Borrowers nor any Subsidiary of the Borrowers is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (i) any agreement to which it is a

party, which default could reasonably be expected to have a Material Adverse Effect or (ii) any agreement or instrument evidencing or governing Indebtedness.

5.13 Compliance With Laws. Each Borrower and its Subsidiaries are in compliance in all material respects with all applicable statutes, rules, regulations, orders and restrictions of any domestic or foreign government or any instrumentality or agency thereof having jurisdiction over the conduct of their respective businesses or the ownership of their respective Property.

5.14 Ownership of Properties. On the date of this Agreement, each Borrower and its Subsidiaries will have good title, free of all Liens other than those permitted by Section 6.14, to all of their respective Property and assets reflected in Holdings' most recent consolidated financial statements provided to the Administrative Agent as owned by Holdings and its Subsidiaries (other than as may have been disposed of in a manner permitted by Section 6.12(a)).

5.15 Plan Assets; Prohibited Transactions. No Borrower or Subsidiary is an entity deemed to hold "plan assets" within the meaning of 29 C.F.R. § 2510.3-101, as modified by Section 3(42) of ERISA, of an employee benefit plan (as defined in Section 3(3) of ERISA) which is subject to Title I of ERISA or any plan (within the meaning of Section 4975 of the Code) which is subject to Section 4975 of the Code, and neither the execution of this Agreement nor the making of Credit Extensions hereunder gives rise to a prohibited transaction within the meaning of Section 406 of ERISA or Section 4975 of the Code. No Borrower or Subsidiary is subject to any law, rule or regulation which is substantially similar to the prohibited transaction provisions of Section 406 of ERISA or Section 4975 of the Code.

5.16 Environmental Matters.

(a) The Property and operations of each Borrower and each of their Subsidiaries are in material compliance with applicable Environmental Laws and no Borrower or Subsidiary is subject to any liability under Environmental Laws that individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(b) No Borrower or Subsidiary is aware that, or has received any notice to the effect that (i) its Property and/or operations are not in material compliance with any of the requirements of applicable Environmental Laws, (ii) any location to which any Borrower or Subsidiary has actually or allegedly sent materials for disposal or recycling is the subject of environmental investigation or remediation pursuant to Environmental Laws, or (iii) its Property and/or operations are the subject of any federal, state or local remedial action, or investigation evaluating whether any remedial action is needed, which, with respect to (i) through (iii), such non-compliance or remedial action individually or in the aggregate could reasonably be expected to have a Material Adverse Effect.

(c) There has been no release of Hazardous Materials at, from, or affecting the Property in concentrations that exceed applicable local, state, or federal standards for the current and expected future use of the Property, the remediation of which to meet applicable standards could, individually or in the aggregate, reasonably be expected to have a Material Adverse Effect.

5.17 Investment Company Act. None of the Borrowers nor any Subsidiary of the Borrowers is an "investment company" or a company "controlled" by an "investment company", within the meaning of the Investment Company Act of 1940.

5.18 Insurance. Holdings maintains, and has caused each Subsidiary to maintain, with financially sound and reputable insurance companies, insurance on all their Property, liability insurance and environmental insurance in such amounts, subject to such deductibles and self- insurance retentions and covering such Properties and risks as is consistent with sound business practice.

5.19 Subordinated Indebtedness. The Obligations constitute senior Indebtedness which is entitled to the benefits of the subordination provisions of all agreements evidencing or governing outstanding Subordinated Indebtedness.

5.20 Solvency.

(a) Immediately after the consummation of the Banker Steel Acquisition and the other transactions to occur on the Effective Date and immediately following the making of each Credit Extension and after giving effect to the application of the proceeds of each Credit Extension, (a) the fair value of the assets of Holdings and its Subsidiaries on a consolidated basis, at a fair valuation, will exceed the debts and liabilities, subordinated, contingent or otherwise, of Holdings and its Subsidiaries on a consolidated basis; (b) the present fair saleable value of the Property of Holdings and its Subsidiaries on a consolidated basis will be greater than the amount that will be required to pay the probable liability of Holdings and its Subsidiaries on a consolidated basis on their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (c) Holdings and its Subsidiaries on a consolidated basis will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (d) Holdings and its Subsidiaries on a consolidated basis will not have unreasonably small capital with which to conduct the businesses in which they are engaged as such businesses are now conducted and are proposed to be conducted after the Effective Date.

(b) Holdings does not intend to, or to permit any of its Subsidiaries to, and does not believe that it or any of its Subsidiaries will, incur debts beyond its ability to pay such debts as they mature.

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

5.22 Anti-Corruption Laws; Sanctions. Holdings, its Subsidiaries and their respective officers and employees and to the knowledge of Holdings, its directors and agents, are in compliance with Anti-Corruption Laws and applicable Sanctions in all material respects. None of Holdings, any Subsidiary or to the knowledge of Holdings, any of their respective directors, officers or employees, is a Sanctioned Person.

5.23 Real Property. Set forth on Schedule 5.23A is a complete and accurate list, as of the Effective Date, of the addresses of all real property owned or leased by any Borrower or

Subsidiary, together with, in the case of leased property, the names and mailing addresses of the lessors of such property.

5.24 Intellectual Property. Each Borrower and each of their Subsidiaries owns and possesses or has a license or other right to use all patents, patent rights, trademarks, trademark rights, trade names, trade name rights, service marks, service mark rights and copyrights as are necessary for the conduct of the businesses of the Borrowers and their Subsidiaries, without any infringement upon rights of others that could reasonably be expected to have a Material Adverse Effect.

ARTICLE VI

COVENANTS

During the term of this Agreement, unless the Required Lenders shall otherwise consent in writing:

6.1 Financial Reporting. Holdings will maintain, for itself and each Subsidiary, a system of accounting established and administered in accordance with GAAP, and furnish to the Administrative Agent and the Lenders:

(a) Within 120 days after the close of each of its fiscal years, an unqualified audit report, with no going concern modifier, certified by independent certified public accountants acceptable to the Administrative Agent and the Lenders, prepared in accordance with GAAP on a consolidating and consolidated basis for itself and its Subsidiaries, including balance sheets as of the end of such period, related profit and loss and reconciliation of surplus statements, and a statement of cash flows, accompanied by any management letter prepared by said accountants.

(b) Within 45 days after the close of each of its fiscal quarters (or 75 days in the case of the last quarter of any fiscal year) for itself and its Subsidiaries, consolidating and consolidated financial statements and consolidating and consolidated unaudited balance sheets as of the close of each such period and a statement of cash flows for the period from the beginning of such fiscal year to the end of such quarter, all certified by its chief financial officer.

(c) Together with the financial statements required under Sections 6.1(a) and (b), a Compliance Certificate in substantially the form of Exhibit B signed by Holdings' as Borrower Agent showing the calculations necessary to determine compliance with this Agreement and stating that no Default or Event of Default exists, or if any Default or Event of Default exists, stating the nature and status thereof.

(d) Within 30 days after the end of each calendar month, an accounts receivables aging report, and order backlog and work in process schedules for the Borrowers and their Subsidiaries.

(e) As soon as practicable, and in any event not later than 30 days after the commencement of each fiscal year of Holdings, financial projections for the Borrowers

and their Subsidiaries for such fiscal year (including monthly operating and cash flow budgets) prepared in a manner consistent with the projections delivered by the Borrowers to the Administrative Agent prior to the Effective Date or otherwise in a manner reasonably satisfactory to the Administrative Agent, accompanied by a certificate of an Authorized Officer to the effect that (i) such projections were prepared by the Borrowers in good faith, (ii) the Borrowers have a reasonable basis for the assumptions contained in such projections and (iii) such projections have been prepared in accordance with such assumptions.

(f) Such other information as the Administrative Agent or any Lender may from time to time reasonably request, including information and documentation reasonably requested by the Administrative Agent or any Lender for purposes of compliance with applicable "know your customer" requirements under the PATRIOT Act or other applicable anti-money laundering laws.

(g) If any information which is required to be furnished to the Lenders under this Section 6.1 is required by law or regulation to be filed by any Borrower with a government body on an earlier date, then the information required hereunder shall be furnished to the Lenders at such earlier date.

6.2 Use of Proceeds. The Borrowers will, and will cause each Subsidiary to, use the proceeds of the Credit Extensions to pay existing indebtedness, for the Banker Steel Acquisition and for working capital. The Borrowers will not, nor will they permit any Subsidiary to, use any of the proceeds of the Advances to purchase or carry any "margin stock" (as defined in Regulation U). The Borrowers will not request any Loan or Facility Letter of Credit, and will not use, and the Borrowers will ensure that their Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Loan or Facility Letter of Credit (i) in furtherance of an offer, payment, promise to pay, or authorization of the payment or giving of money, or anything else of value, to any Person in violation of any Anti-Corruption Laws or (ii) in any manner that would result in the violation of any applicable Sanctions.

6.3 Notice of Material Events. The Borrowers will, and will cause each Subsidiary to, give notice in writing to the Administrative Agent and each Lender, promptly and in any event within 10 days after an officer of any Borrower obtains knowledge thereof, of the occurrence of any of the following:

(a) any Default or Event of Default;

(b) (i) the filing or commencement of any action, suit or proceeding by or before any arbitrator or Governmental Authority against or affecting any Borrower or any Affiliate thereof that, if adversely determined, would reasonably be expected to result in a Material Adverse Effect and (ii) any material adverse development which occurs in any litigation, arbitration or governmental investigation or proceeding previously disclosed by any Borrower or any Subsidiary pursuant to clause 6.3(b)(i);

(c) with respect to a Plan, (i) any failure to pay all required minimum contributions and installments on or before the due dates provided under Section 430(j) of

the Code or (ii) the filing pursuant to Section 412(c) of the Code or Section 302(c) of ERISA, of an application for a waiver of the minimum funding standard;

(d) the occurrence of any ERISA Event that, alone or together with any other ERISA Events that have occurred, would reasonably be expected to result in a Material Adverse Effect;

(e) any material change in accounting policies of, or financial reporting practices by, any Borrower or any Subsidiary, the receipt by Borrowers or any Subsidiary of any comment letter or management report submitted by its auditor (together with a copy thereof) as to any material accounting matters, or any discharge, resignation or withdrawal by or of Borrower's present auditor;

(f) any change in the information provided in any Beneficial Ownership Certification that would result in a change to the list of beneficial owners identified in such certification;

(g) any Material Adverse Effect upon a material portion of the Collateral or the commencement of any action or proceeding for the taking of any interest in a material portion of the Collateral;

(h) the creation or acquisition of any Subsidiary;

(i) any change in Holdings' senior executive officers; and

(j) any other development, financial or otherwise, which would reasonably be expected to have a Material Adverse Effect.

Each notice delivered under this Section 6.3 shall be accompanied by a statement of an officer of the relevant Borrower setting forth the details of the event or development requiring such notice and any action taken or proposed to be taken with respect thereto.

6.4 Conduct of Business. Each Borrower will, and will cause each Subsidiary to, carry on and conduct its business in substantially the same manner and in substantially the same fields of enterprise as it is presently conducted and do all things necessary to remain duly incorporated or organized, validly existing and (to the extent such concept applies to such entity) in good standing as a domestic corporation, partnership or limited liability company in its jurisdiction of incorporation or organization, as the case may be, and maintain all requisite authority to conduct its business in each jurisdiction in which its business is conducted.

6.5 Taxes. Each Borrower will, and will cause each Subsidiary to, timely file complete and correct United States federal and applicable foreign, state and local tax returns required by law and pay when due all taxes, assessments and governmental charges and levies upon it or its income, profits or Property, except those which are being contested in good faith by appropriate proceedings, with respect to which adequate reserves have been set aside in accordance with GAAP and which could not reasonably be expected, individually or in the aggregate, to have a Material Adverse Effect.

6.6 Insurance. Each Borrower will, and will cause each Subsidiary to, maintain with financially sound and reputable insurance companies, insurance on all their Property, liability insurance and environmental insurance in such amounts, subject to such deductibles and self- insurance retentions and covering such Properties and risks as is consistent with sound business practice, customarily carried under similar circumstances by Persons engaged in the same or similar business and reasonably acceptable to Administrative Agent, and each Borrower will furnish to any Lender upon request full information as to the insurance carried. With respect to such insurance, the Administrative Agent shall be named as an additional insured and as mortgagee and lender loss payee pursuant to endorsements acceptable to the Administrative Agent, and each provider of any such insurance shall agree, by endorsement upon the policy or policies issued by it or by independent instruments furnished to the Administrative Agent, that it will give the Administrative Agent thirty (30) days prior written notices before any such policy or policies shall be cancelled. The Borrowers shall notify the Administrative Agent in writing if (i) any such policy or policies shall be materially altered in a manner adverse to the Administrative Agent and/or the Lenders or (ii) the amount of coverage thereunder shall be reduced. Without limiting the foregoing, (a) the Administrative Agent and each Lender shall be permitted to obtain a completed "Life-of-Loan" Federal Emergency Management Agency Standard Flood Hazard Determination with respect to all real property Collateral, prior to execution and recording of any mortgage instrument with respect to such real property Collateral, and (b) if any real property Collateral is located in an area designated by the Federal Emergency Management Agency as having special flood or mudslide hazards, the Borrowers shall (i) deliver to the Administrative Agent and any Lender upon request, prior to execution and recording of any mortgage instrument with respect to such real property Collateral, evidence of applicable flood insurance, if available, in such form, on such terms and in such amounts as required by applicable flood insurance laws or as otherwise required by the Lenders, and (ii) maintain with a financially sound and reputable insurer at all times flood insurance, if available, with respect to such real property Collateral in such form, on such terms and in such amounts as required by applicable flood insurance laws or as otherwise required by the Lenders.

6.7 Compliance with Laws and Material Contractual Obligations. The Borrowers will, and will cause each Subsidiary to, (i) comply in all material respects with all laws, rules, regulations, orders, writs, judgments, injunctions, decrees or awards to which it may be subject including, without limitation, all Environmental Laws, Anti-Corruption Laws and applicable Sanctions and (ii) perform in all material respects its obligations under material agreements to which it is a party.

6.8 Maintenance of Properties. The Borrowers will, and will cause each Subsidiary to, (i) do all things necessary to maintain, preserve, protect and keep its Property in good repair, working order and condition, ordinary wear and tear excepted, and make all necessary and proper repairs, renewals and replacements so that its business carried on in connection therewith may be properly conducted at all times; and (ii) to the extent the Property has any structures associated with Land Use Controls, inspect, maintain, repair and replace such structures as necessary to realize the benefit of such Land Use Controls.

6.9 Books and Records; Inspection. The Borrowers will, and will cause each of their Subsidiaries to, keep appropriate books of record and account in which it shall maintain full, true and correct entries of all dealings and transactions in relation to its business and activities. The

Borrowers will, and will cause each Subsidiary to, permit the Administrative Agent and the Lenders, by their respective representatives and agents, at the Borrowers' expense, to inspect any of the Property, books and financial records of the Borrowers and each Subsidiary, to examine and make copies of the books of accounts and other financial records of the Borrowers and each Subsidiary, and to discuss the affairs, finances and accounts of the Borrowers and each Subsidiary with, and to be advised as to the same by, their respective officers at such reasonable times and intervals as the Administrative Agent or any Lender may designate.

6.10 Indebtedness. The Borrowers will not, and will not permit any Subsidiary to, create, incur, assume or suffer to exist any Indebtedness, except:

(a) Obligations under this Agreement and the other Loan Documents;

(b) Indebtedness secured by Liens permitted by Section 6.14(h), and extensions, renewals and refinancings thereof; provided that the aggregate amount of all such Indebtedness at any time outstanding shall not exceed $1,000,000.00;

(c) Indebtedness of any Borrower or Guarantor to any other Borrower or Guarantor;

(d) Subordinated Indebtedness incurred as part of the Banker Steel Acquisition;

(e) Hedging Obligations approved by the Administrative Agent and incurred in favor of a Lender or an Affiliate thereof for bona fide hedging purposes and not for speculation;

(f) Debt described on Schedule 6.10 and any extension, renewal or refinancing thereof so long as the principal amount thereof is not increased;

(g) Contingent Obligations arising with respect to customary indemnification obligations in favor of purchasers in connection with Dispositions permitted under Section 6.12;

(h) Indebtedness owing by a Foreign Subsidiary to a Borrower or Guarantor that constitutes a Permitted Foreign Subsidiary Investment;

(i) Indebtedness associated with trade payables incurred in the ordinary course of business;

(j) Indebtedness secured by Permitted Liens incurred under Section 6.14(g) or 6.14(h) or comprising Investments permitted by this Agreement, provided that with respect to Permitted Liens permitted under Section 6.14(g), this clause (j) shall be construed to permit only indebtedness existing on the date of such Permitted Acquisition and that was not created in contemplation of such Permitted Acquisition;

(k) Unsecured Indebtedness representing deferred compensation to employees or directors of a Borrower or any Subsidiary of any Borrower incurred in the ordinary course of business and in an aggregate outstanding amount not to exceed $7,500,000.00;

(l) Indebtedness incurred in the ordinary course of business and owed in respect to any overdrafts and related liabilities arising from treasury, depository and cash management services or in connection with any automated clearing house transfers of funds;

(m) Indebtedness (other than for borrowed money) that may be deemed to exist pursuant to any warranty or contractual service obligations, performance, surety, statutory, appeal, bid, payment (other than the payment of Indebtedness) or completion of performance guarantees or similar obligations incurred in the ordinary course of business;

(n) Indebtedness in respect of workers' compensation claims, payment obligations incurred in connection with health, disability or other types of social security benefits, unemployment or other insurance obligations, reclamation and statutory obligations, in each case in the ordinary course of business;

(o) Contingent Obligations arising in connection with the endorsement of negotiable instruments for deposit or collection or similar transactions in the ordinary course of business;

(p) Guaranties incurred in the ordinary course of business with respect to surety and appeal bonds, performance bonds and similar obligations;

(q) Guaranties of any obligations of any other Borrower or Subsidiary to the extent that such obligations that are guaranteed are permitted to be incurred by this Agreement; and

(r) Other unsecured Indebtedness, in addition to the Indebtedness listed above, in an aggregate outstanding amount not at any time exceeding $1,000,000.00.

6.11 Merger. The Borrowers will not, nor will they permit any of their Subsidiaries to, merge or consolidate with or into any other Person, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, except that (i) a Subsidiary may merge, consolidate, liquidate or dissolve into a Borrower or a Guarantor (with the applicable Borrower or a Guarantor being the survivor thereof, and with the applicable Borrower being the survivor of any merger with any Guarantor or Subsidiary), (ii) a non-Guarantor Subsidiary may merge, consolidate, liquidate or dissolve into another non-Guarantor Subsidiary, and (iii) a Borrower or any Subsidiary may merge or consolidate with or into any Person other than a Borrower or a Subsidiary in order to effect a Permitted Acquisition (with the applicable Borrower or such Subsidiary being the survivor thereof).

6.12 Sale of Assets. No Borrower will, nor will it permit any of its Subsidiaries to, engage in or permit to occur a Disposition (not including any such Disposition by any Borrower or Guarantor to any other Borrower or Guarantor), except:

(a) Sales of inventory, or used, worn-out or surplus equipment, all in the ordinary course of business;

(b) The sale of equipment to the extent that such equipment is exchanged for credit against the purchase price of similar replacement equipment, or the proceeds of such sale are applied with reasonable promptness to the purchase price of such replacement equipment; and

(c) Other Dispositions involving Property (other than equity interests in a Subsidiary) with a fair market value not in excess of $5,000,000.00 in any fiscal year.

6.13 Acquisitions. No Borrower will, nor will it permit any of its Subsidiaries to, make any Acquisition other than the Banker Steel Acquisition and Permitted Acquisitions.

6.14 Liens. No Borrower will, nor will it permit any of its Subsidiaries to, create, incur, or suffer to exist any Lien in, of or on the Property of the applicable Borrower or any of its Subsidiaries (including, without limitation, the GrayWolf Specified Properties), except:

(a) Liens for taxes, assessments or governmental charges or levies on its Property if the same shall not at the time be delinquent or thereafter can be paid without penalty, or are being contested in good faith and by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;

(b) Liens imposed by law, such as carriers', warehousemen's and mechanics' liens and other similar liens arising in the ordinary course of business which secure payment of obligations not more than 60 days past due or which are being contested in good faith by appropriate proceedings and for which adequate reserves in accordance with GAAP shall have been set aside on its books;

(c) Liens arising out of pledges or deposits under worker's compensation laws, unemployment insurance, old age pensions, or other social security or retirement benefits, or similar legislation;

(d) Utility easements, building restrictions and such other encumbrances or charges against real property as are of a nature, generally existing with respect to Properties of a similar character and which do not in any material way affect the marketability of the same or interfere with the use thereof in the business of the applicable Borrower or its Subsidiaries; and in the case of any Liens on Property which is or will be subject to a deed of trust or mortgage in favor of Administrative Agent, which Liens are approved by Administrative Agent at the time such deed of trust or mortgage is granted to Administrative Agent;

(e) Liens arising solely by virtue of any statutory or common law provision relating to bankers' liens, rights of set-off or similar rights and remedies as to deposit accounts, securities accounts or other funds maintained with a creditor depository institution; provided that (i) such account is not a dedicated cash collateral account and is not subject to restriction against access by a Borrower or a Subsidiary in excess of those set forth by regulations promulgated by the Board of Governors of the Federal Reserve, and (ii) such account is not intended by the applicable Borrower or any Subsidiary to provide collateral to the depository institution.

(f) Liens existing on the date hereof and described in Schedule 6.14;

(g) Liens on Property acquired in a Permitted Acquisition, provided that such Liens extend only to the Property so acquired and were not created in contemplation of such Permitted Acquisition;

(h) Subject to the limitation set forth in Section 6.10(b), (i) Liens arising in connection with Finance Leases (and attaching only to the property being leased), and (ii) Liens that constitute purchase money security interests on any property securing debt incurred for the purpose of financing all or any part of the cost of acquiring such property, provided that any such Lien attaches to such property within 60 days of the acquisition thereof and attaches solely to the property so acquired;

(i) Attachments, appeal bonds, judgments and other similar Liens, for sums not exceeding $1,000,000.00 in the aggregate arising in connection with court proceedings, provided the execution or enforcement of such Liens is effectively stayed and claims secured thereby are being contested in good faith and by appropriate proceedings;

(j) Liens in favor of customs and revenue authorities arising as a matter of law to secure payment of customs duties in connection with the importation of goods;

(k) Liens not otherwise permitted by this Section so long as neither (i) the aggregate outstanding principal amount of the obligations secured thereby nor (ii) the aggregate fair market value of the assets subject thereto exceeds $250,000.00 in the aggregate for the foregoing clauses (i) and (ii) at any one time; and

(l) Liens in favor of the Administrative Agent, for the benefit of the Lenders, granted pursuant to any Collateral Document.

6.15 Affiliates. No Borrower will, nor will not permit any of its Subsidiaries to, enter into any transaction (including, without limitation, the purchase or sale of any Property or service) with, or make any payment or transfer to, any Affiliate (other than transfers in favor of Borrowers and Guarantors) except (a) in the ordinary course of business and pursuant to the reasonable requirements of the applicable Borrower's or such Subsidiary's business and upon fair and reasonable terms no less favorable to the applicable Borrower or Guarantor than the applicable Borrower or Guarantor would obtain in a comparable arms-length transaction, and (b) Permitted Foreign Subsidiary Investments. Notwithstanding the foregoing, and without

limitation, no Borrower or Subsidiary shall transfer any assets to Schuff Steel Management Company – Colorado L.L.C. or Schuff Steel Management Company – Southeast L.L.C.

6.16 Subordinated Indebtedness. No Borrower will, nor will it permit any of its Subsidiaries to, make any amendment or modification to the indenture, note or other agreement evidencing or governing any Subordinated Indebtedness, or directly or indirectly voluntarily prepay, defease or in substance defease, purchase, redeem, retire or otherwise acquire, or grant any security for, any Subordinated Indebtedness other than as expressly permitted under the applicable Subordination Agreement~~.~~**, provided that Borrowers may make the Banker Trust 2023 Prepayment on or prior to December 31, 2023 so long as (a) no Default or Event of Default shall exist before or after giving effect to such payment, and (b) Holdings, The Banker Family Irrevocable Trust #3 U/A/D December 22, 2009 and Donald W. Banker have entered into a letter agreement in the form previously provided to Administrative Agent regarding the Banker Trust 2023 Prepayment, Donald W. Banker's employment transition, the aircraft lease agreement between Banker Steel Co., L.L.C. and Banker Aviation, LLC and the building lease between Banker Steel Co., L.L.C. and 2940 Fulks Street, LLC.**

6.17 Sale of Accounts. No Borrower will, nor will it permit any of its Subsidiaries to, sell or otherwise dispose of any notes receivable or accounts receivable, with or without recourse other than in the ordinary course of business.

6.18 Restricted Payments. No Borrower will, nor will any Borrower permit any of its Subsidiaries to, make any Restricted Payment, except that (i) any Borrower or Subsidiary may declare and pay dividends or make distributions to a Borrower or to a Subsidiary of a Borrower, and (ii) Holdings may declare and pay dividends on is capital stock provided that (x) no Default or Event of Default shall exist before or after giving effect to such dividends or be created as a result thereof, (y) the amount of such dividends paid in any fiscal year of Holdings shall not exceed the sum of (a) 60% of Net Income for such fiscal year, and (b) the difference between 60% of Net Income for the prior fiscal year and the amount of Restricted Payments actually made in the prior fiscal year, and (z) at least five Business Days prior to making any Restricted Payment permitted by this clause (ii), Borrowers shall deliver to Administrative Agent pro forma calculations showing that after giving effect to such Restricted Payment, (a) Borrowers will be in compliance with the foregoing clause (y), ~~and~~ (b) Borrowers will be, and will remain, in compliance with Section 6.19**, and (c) Pro Forma Liquidity will be at least $25,000,000.00**.

6.19 Financial Covenants.

6.19.1 Fixed Charge Coverage Ratio. Holdings shall not permit the Fixed Charge Coverage Ratio as of the last day of any fiscal quarter of Holdings for the period of four fiscal quarters ending on such day to be less than (a) for the fiscal quarter ending on June 30, 2022, 1.20 to 1.00, (b) thereafter, 1.30 to 1.00.

6.19.2 Senior Funded Indebtedness to EBITDA Ratio. Holdings shall not permit the Senior Funded Indebtedness to EBITDA Ratio as of the last day of any fiscal quarter of Holdings to be greater than 2.50 to 1.0.

6.20 Collateral Audits/Inspections. The Borrowers and their Subsidiaries shall permit the Administrative Agent, along with any Lender accompanying Administrative Agent, and each of their respective representatives or agents, to inspect their Property, and to inspect, audit, check and make copies of, and extracts from, their books, records, computer data, computer programs, journals, orders, receipts, correspondence and other data, the results of which must be satisfactory in the discretion of the Administrative Agent. Any Lender and each of its duly authorized representatives or agents may accompany Administrative Agent on any such visits or inspections, at the expense of such Lender. Each Borrower and Subsidiary shall also permit and facilitate, where appropriate, the opportunity of Administrative Agent, any Lender, or any of their respective representatives or agents to discuss such audit/inspection with relevant officers, employees and accountants. All such inspections or audits by the Administrative Agent shall be at the Borrowers' sole expense for expenses based on $1,100 per examiner per day (plus out-of-pocket expenses (including reasonable and documented costs of travel, meals, and lodging)). Notwithstanding the foregoing, so long as no Event of Default has occurred, the Borrowers shall not be required to pay the expenses of more than one such audit or inspection during any calendar year.

6.21 Anti-Money Laundering Compliance. Each Borrower shall, and shall cause each of its Subsidiaries to, provide such information and take such actions as are reasonably requested by the Administrative Agent or any Lender in order to assist the Administrative Agent and the Lenders in maintaining compliance with anti-money laundering laws and regulations.

6.22 Deposit Accounts. Each Borrower and its Subsidiaries will move all of their deposit accounts (other than accounts maintained with a Lender) to the Administrative Agent within 180 days after the Effective Date and will thereafter maintain all of such deposit accounts (other than deposit accounts maintained with a Lender) with the Administrative Agent. Within 180 days after the Effective Date, all such deposit accounts (other than (i) deposit accounts used solely for payroll, payroll taxes and other employee wage and benefit programs, and (ii) to the extent Administrative Agent has approved the maintenance of such deposit accounts at another institution, zero balance accounts) of the Borrowers and their Subsidiaries shall at all times thereafter be subject to a Control Agreement. Notwithstanding the foregoing, (i) in no event shall any deposit account of any Foreign Subsidiary be required to be moved to the Administrative Agent or be subject to a Control Agreement if such actions would create a negative tax consequence for any Borrower, Guarantor or Subsidiary, and (ii) at all times during the term of this Agreement, Holdings and its domestic Subsidiaries may have operating accounts at financial institutions that are other than the Administrative Agent or a Lender and such deposit accounts shall not be required to be subject to a Control Agreement provided that the aggregate amount of deposits in such deposit accounts do not at any time exceed $250,000 in the aggregate.

6.23 Investments. No Borrower will, nor will any Borrower permit any of its Subsidiaries to, make or permit to exist any Investment in any other Person, except the following:

(a) At any time that no Default or Event of Default exists, contributions by any Borrower to the capital of any other Borrower or any Guarantor, or by any Subsidiary to the capital of any Borrower or Guarantor, so long as the recipient of any such capital

contribution has guaranteed the Obligations and such guaranty is secured by a pledge of all of its Equity Interests and substantially all of its real and personal property;

(b) Travel advances or loans to officers and employees of any Borrower or any of its Subsidiaries not exceeding at any one time $100,000.00 in the aggregate;

(c) Advances in the form of (i) progress payments, (ii) prepaid rent not exceeding two (2) months, or (iii) security deposits;

(d) Extensions of trade credit in the ordinary course of business;

(e) Promissory notes or other non-cash consideration received in connection with any dispositions permitted by this Agreement;

(f) Investments received in connection with the bankruptcy or reorganization of, or settlement of delinquent accounts and disputes with, customers and suppliers, in the ordinary course of business;

(g) Investments constituting Permitted Investments;

(h) Deposits of cash made in the ordinary course of business to secure the performance of operating leases;

(i) Investments existing as of the Effective Date and listed on Schedule 6.23; and

(j) Permitted Foreign Subsidiary Investments; and

(k) Other Investments in an aggregate amount not to exceed $250,000.00 during the term of this Agreement.

6.24 Further Assurances.

(a) Each Borrower shall take, and cause each Subsidiary (other than Foreign Subsidiaries) to take, such actions as are necessary (including the execution and delivery of such guaranties, security agreements, mortgages, deeds of trust, assignments, estoppel certificates, financing statements and continuations thereof, termination statements, notices of assignment, certificates, assurances and other instruments as the Administrative Agent or the Required Lenders may reasonably request from time to time) or that the Administrative Agent or the Required Lenders may reasonably request from time to time in order (i) to ensure that (x) all of the Obligations are secured by substantially all of the assets of the Borrowers and Guarantors and guaranteed by all Domestic Subsidiaries (including, promptly upon the acquisition or creation thereof, any Domestic Subsidiary created or acquired after the date hereof) pursuant to guaranties, security agreements and other Collateral Documents in form and substance satisfactory to the Administrative Agent and (y) the Obligations of each Guarantor under such party's Guaranty are secured by substantially all of the assets of such Guarantor, (ii) to perfect and maintain the validity, perfection and priority of the Liens intended to be created by

the Collateral Documents and (iii) to better assure, convey, grant, assign, transfer, preserve, protect and confirm to the Administrative Agent and the Lenders the rights granted or now or hereafter intended to be granted to the Administrative Agent and the Lenders under any Loan Document or under any other document executed in connection therewith. Notwithstanding the foregoing, (A) no Foreign Subsidiary shall be required to issue any guaranty or grant any collateral (and no Foreign Subsidiary shall become a Borrower or Guarantor hereunder without the consent of each Lender), (B) no Borrower or Guarantor shall be required to pledge more than 65% of the stock of any Foreign Subsidiary if such action would result in adverse tax consequences to the Borrowers or any other Subsidiaries, (C) unless otherwise requested by Lenders at any time, GrayWolf Integrated Construction Company – Southeast, Inc., a Georgia corporation, shall not be required to grant Liens on the property located at (a) 3550 Francis Circle, Alpharetta, GA 3003; (b) 37 Artley Road, Savannah, GA 31408; and (c) 3033 County Road 49, Loxley, AL 36551 (collectively, the "GrayWolf Specified Properties") and (D) the Administrative Agent shall have the right (but not the obligation unless requested by the Required Lenders) to perfect its security interest in shares or other Equity Interests of any foreign Person pledged to the Administrative Agent in accordance with the laws of the applicable foreign jurisdiction. Notwithstanding any agreement by Administrative Agent not to require compliance with this Section 6.24 in any respect as of the Effective Date or any other date (including but not limited to Administrative Agent not requiring Liens on the GrayWolf Specified Properties as permitted by the foregoing clause (C) as of the First Amendment Date and not requiring compliance with the laws of any applicable foreign jurisdiction as permitted by the foregoing clause (D) as of the Effective Date) shall not be deemed a waiver of Administrative Agent's right thereafter to require full compliance with all or any portion of this Section 6.24.

(b) Without limitation of Section 6.24(a), on or before October 31, 2022, Borrowers shall, at Borrowers' expense, deliver to Administrative Agent such amendments to mortgages, amendments to deeds of trust, title policy endorsements and other documents and deliveries as Administrative Agent or the Title Insurer, as applicable, may request to confirm to Administrative Agent's satisfaction that all of the Collateral secures all of the Obligations, including but not limited to the First Amendment Increase, and that all of the title insurance policies insuring liens in favor Administrative Agent remain in full force and effect insuring the applicable Collateral Documents, as amended.

ARTICLE VII

DEFAULTS

The occurrence of any one or more of the following events shall constitute an Event of Default (each, an "Event of Default"):

7.1 Any representation or warranty made or deemed made by or on behalf of a Borrower or any of its respective Subsidiaries to the Lenders or the Administrative Agent under or in connection with this Agreement, any other Loan Document, any Credit Extension, or any

certificate or information delivered in connection with this Agreement or any other Loan Document shall be materially false on the date made or confirmed.

7.2 Nonpayment of (i) principal of, or interest on, any Loan (ii) any Reimbursement Obligation, any commitment fee or Letter of Credit Fee, or any other obligation under any of the Loan Documents (other than principal of, or interest on, any Loan), and in case of clause (ii), continuation of any nonpayment for five (5) Business Days after the same becomes due.

7.3 The breach by a Borrower of any of the terms or provisions of Article VI.

7.4 (i) Failure of a Borrower or any of its Subsidiaries to pay when due any payment (whether of principal, interest or any other amount) in respect of any Material Indebtedness that is not subject to a good faith dispute, (ii) the default by a Borrower or any of its Subsidiaries in the performance (beyond the applicable grace period with respect thereto, if any) of any term, provision or condition contained in any Material Indebtedness Agreement, or any other event shall occur or condition exist, the effect of which default, event or condition, provided such default, event or condition is not subject to a good faith dispute, under this clause (ii) is to cause, or to permit the holder(s) of such Material Indebtedness or the lender(s) under any Material Indebtedness Agreement to cause, any portion of such Material Indebtedness to become due prior to its stated maturity or any commitment to lend under any Material Indebtedness Agreement to be terminated prior to its stated expiration date, (iii) any portion of Material Indebtedness of a Borrower or any of its Subsidiaries shall be declared to be due and payable or required to be prepaid or repurchased (other than by a regularly scheduled payment) prior to the stated maturity thereof and such requirement is not subject to a good faith dispute, or (iv) a Borrower or any of its Subsidiaries shall not pay, or admit in writing its inability to pay, its debts generally as they become due.

7.5 A Borrower or any of its Subsidiaries shall (i) have an order for relief entered with respect to it under the Federal bankruptcy laws as now or hereafter in effect, (ii) make an assignment for the benefit of creditors, (iii) apply for, seek, consent to, or acquiesce in, the appointment of a receiver, custodian, trustee, examiner, liquidator or similar official for it or any portion of its Property, (iv) institute any proceeding seeking an order for relief under the Federal bankruptcy laws as now or hereafter in effect or seeking to adjudicate it a bankrupt or insolvent, or seeking dissolution, winding up, liquidation, reorganization, arrangement, adjustment or composition of it or its debts under any law relating to bankruptcy, insolvency or reorganization or relief of debtors or fail to file an answer or other pleading denying the material allegations of any such proceeding filed against it, (v) take any corporate, limited liability company or partnership action to authorize or effect any of the foregoing actions set forth in this Section 7.5, (vi) fail to contest in good faith any appointment or proceeding described in Section 7.6, or (vii) a Borrower or any of its Subsidiaries shall not pay, or admit in writing its inability to pay, its debts generally as they become due.

7.6 Without the application, approval or consent of a Borrower or any of its Subsidiaries, a receiver, trustee, examiner, liquidator or similar official shall be appointed for such Borrower or any of its Subsidiaries or any portion of its Property, or a proceeding described in Section 7.5(iv) shall be instituted against a Borrower or any of its Subsidiaries and such appointment continues undischarged or such proceeding continues undismissed or unstayed for a

period of sixty (60) consecutive days.

7.7 Any court, government or governmental agency shall condemn, seize or otherwise appropriate, or take custody or control of, all or any portion of the Property of a Borrower and its Subsidiaries.

7.8 A Borrower or any of its Subsidiaries shall fail within sixty (60) days to pay, obtain a stay with respect to, or otherwise discharge one or more (i) non-appealable judgments or orders for the payment of money in excess of $1,000,000.00 (or the equivalent thereof in currencies other than Dollars) in the aggregate to the extent not covered by insurance, or (ii) nonmonetary judgments or orders which, individually or in the aggregate, could reasonably be expected to have a Material Adverse Effect, which judgment(s), in any such case, is/are not stayed on appeal or otherwise being appropriately contested in good faith, or any action shall be legally taken by a judgment creditor to attach or levy upon any assets of a Borrower or any of its Subsidiaries to enforce any such judgment.

7.9 (i) With respect to a Plan, a Borrower or an ERISA Affiliate is subject to a lien pursuant to Section 430(k) of the Code or Section 302(c) of ERISA or Title IV of ERISA, or (ii) an ERISA Event shall have occurred that, in the opinion of the Required Lenders, when taken together with all other ERISA Events that have occurred, could reasonably be expected to result in a Material Adverse Effect.

7.10 Any Change in Control shall occur.

7.11 The occurrence of any "default" or an "event of default", each as defined in any Loan Document (other than this Agreement) or the breach of any of the terms or provisions of any Loan Document (other than this Agreement), which default, event of default, or breach continues beyond any period of grace therein provided.

7.12 Any Loan Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Guaranty, or any Guarantor shall challenge the terms or provisions of any Guaranty to which it is a party, any Guarantor repudiates or purports to revoke its Guaranty or any Guarantor shall otherwise deny that it has any further liability under any Guaranty to which it is a party, or shall give notice to such effect.

7.13 Any Collateral Document shall for any reason fail to create a valid and perfected first priority security interest in any Collateral purported to be covered thereby, except as permitted by the terms of any Collateral Document or the terms hereof, or any Collateral Document shall fail to remain in full force or effect or any action shall be taken to discontinue or to assert the invalidity or unenforceability of any Collateral Document, or any Borrower or Guarantor shall fail to comply with any of the terms or provisions of any Collateral Document to which it is a party.

ARTICLE VIII

ACCELERATION, WAIVERS, AMENDMENTS AND REMEDIES

8.1 Acceleration; Remedies.

(a) If any Event of Default described in Section 7.5 or 7.6 occurs with respect to any Borrower, the obligations of the Lenders to make Loans hereunder shall automatically terminate and the Obligations under this Agreement and the other Loan Documents shall immediately become due and payable without any election or action on the part of the Administrative Agent. If any other Event of Default occurs, the Administrative Agent may, and at the request of the Required Lenders shall, terminate the obligations of the Lenders to make Loans hereunder and the obligation and power of the Letter of Credit Issuer to issue Facility Letters of Credit, or declare the Obligations under this Agreement and the other Loan Documents to be due and payable, or both, whereupon the Obligations under this Agreement and the other Loan Documents shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which each Borrower hereby expressly waives, and (b) upon notice to the Borrowers and in addition to the continuing right to demand payment of all amounts payable under this Agreement, make demand on the Borrowers to pay, and the Borrowers will, forthwith upon such demand and without any further notice or act, pay to the Administrative Agent the difference between 105% of the aggregate face amount of the Facility Letters of Credit and the balance of cash in the Facility Letter of Credit Collateral Account ("Collateral Shortfall Amount"), which funds shall be deposited in the Facility Letter of Credit Collateral Account.

(b) If at any time while any Event of Default is continuing, the Administrative Agent determines that the Collateral Shortfall Amount at such time is greater than zero, the Administrative Agent may make demand on the Borrowers to pay, and the Borrowers will, forthwith upon such demand and without any further notice or act, pay to the Administrative Agent the Collateral Shortfall Amount, which funds shall be deposited in the Facility Letter of Credit Collateral Account.

(c) The Administrative Agent may at any time or from time to time after funds are deposited in the Facility Letter of Credit Collateral Account, apply such funds to the payment of the Obligations under this Agreement and the other Loan Documents and any other amounts as shall from time to time have become due and payable by the Borrowers to the Lenders or the Letter of Credit Issuer under the Loan Documents, as provided in Section 8.2.

(d) At any time while any Event of Default is continuing, neither the Borrowers nor any Person claiming on behalf of or through the Borrowers shall have any right to withdraw any of the funds held in the Facility Letter of Credit Collateral Account. After all of the Obligations under this Agreement and the other Loan Documents have been indefeasibly paid in full and the Revolving Commitment has been terminated, any funds remaining in the Facility Letter of Credit Collateral Account shall be returned by the Administrative Agent to the applicable Borrowers or paid to whomever may be legally entitled thereto at such time.

(e) If, within thirty (30) days after acceleration of the maturity of the Obligations under this Agreement and the other Loan Documents or termination of the

obligations of the Lenders to make Loans and the obligation and power of the Letter of Credit Issuer to issue Facility Letters of Credit hereunder as a result of any Event of Default (other than any Event of Default as described in Section 7.5 or 7.6 with respect to any Borrower or Guarantor) and before any judgment or decree for the payment of the Obligations due under this Agreement and the other Loan Documents shall have been obtained or entered, the Required Lenders (in their sole discretion) so direct, the Administrative Agent shall, by notice to the Borrowers, rescind and annul such acceleration and/or termination.

(f) Upon the occurrence and during the continuation of any Event of Default, the Administrative Agent may, and at the request of the Required Lenders shall, exercise all rights and remedies under the Loan Documents and enforce all other rights and remedies under applicable law.

8.2 Application of Funds. After the exercise of remedies provided for in Section 8.1 (or after the Obligations under this Agreement and the other Loan Documents have automatically become immediately due and payable as set forth in the first sentence of Section 8.1(a)), any amounts received by the Administrative Agent on account of the Obligations shall be applied by the Administrative Agent in the following order:

(a) first, to payment of fees, indemnities, expenses and other amounts (including fees, charges and disbursements of counsel to the Administrative Agent and amounts payable under Article III) payable to the Administrative Agent in its capacity as such;

(b) second, to payment of fees, indemnities and other reimbursable expenses (other than principal, interest, Letter of Credit Fees and commitment fees) payable to the Lenders and the Letter of Credit Issuer (including fees, charges and disbursements of counsel to the respective Lenders and the Letter of Credit Issuer as required by Section 9.6 and amounts payable under Article III), ratably among the Lenders and the Letter of Credit Issuer in respect of the respective amounts payable to them;

(c) third, to payment of accrued and unpaid Letter of Credit Fees, commitment fees and interest on the Loans and Reimbursement Obligations, ratably among the Lenders and the Letter of Credit Issuer in respect of the respective amounts payable to them;

(d) fourth, to payment of all Obligations ratably among the Lenders, the Letter of Credit Issuer and any Affiliate of any of the foregoing, including with respect to Cash Management Services;

(e) fifth, to the Administrative Agent for deposit to the Facility Letter of Credit Collateral Account in an amount equal to the Collateral Shortfall Amount, if any; and

(f) last, the balance, if any, to the Borrowers or as otherwise required by law.

8.3 Amendments. The Required Lenders (or the Administrative Agent with the consent in writing of the Required Lenders) and the Borrowers may enter into agreements supplemental hereto for the purpose of adding or modifying any provisions to this Agreement or any other Loan Document or changing in any manner the rights of the Lenders or the Borrowers hereunder or thereunder or waiving any Default or Event of Default hereunder; *provided*, *however*, that no such supplemental agreement shall:

(a) without the consent of each Lender directly affected thereby, extend the final maturity of any Loan, or extend the expiry date of any Facility Letter of Credit to a date after the Revolving Loan Maturity Date (except to the extent expressly permitted hereby for Facility Letters of Credit that have been cash collateralized) or postpone any regularly scheduled payment of principal of any Loan (excluding mandatory repayments, which shall require the consent of all Lenders) or forgive all or any portion of the principal amount thereof or any Reimbursement Obligation related thereto, or reduce the rate or extend the time of payment of interest or fees thereon or Reimbursement Obligations related thereto or increase the amount of any Commitment of such Lender hereunder (provided that only the consent of the Required Lenders shall be necessary (x) to amend Section 2.5.2 or to waive the obligation of Borrowers to pay default interest as set forth in Section 2.5.2 or (y) to amend any financial covenant (or any defined term directly or indirectly used therein), even if the effect of such amendment would be to reduce the rate of interest applicable to any (1) Loan or (2) other Obligation solely by virtue of abstaining from the application of the Default Rate thereon, or to reduce any fee payable hereunder);

(b) without the consent of all of the Lenders, amend the definition of "Required Lenders" or "Pro Rata Share," or amend any of the provisions hereof specifying the number or percentage of Lenders required to waive, amend or modify any rights hereunder or make any determination or grant any consent hereunder;

(c) without the consent of all of the Lenders, amend Section 8.2, this Section 8.3 or Section 11.2; provided, that the foregoing limitation in respect of Section 11.2 shall not prohibit each Lender directly affected thereby from consenting to the extension of the final maturity date of its Loans or expiry date of its Facility Letters of Credit beyond the Revolving Loan Maturity Date as contemplated by Section 8.3(a) above;

(d) without the consent of all of the Lenders, except as otherwise provided in Section 10.15, release all or substantially all of the Collateral;

(e) without the consent of all of the Lenders, contractually subordinate any Liens granted by any Borrower or any Guarantor to Administrative Agent pursuant to the Loan Documents and securing the Obligations;

(f) without the consent of all of the Lenders, amend Section 4.1 or Section 4.2 hereof;

(g) without the consent of all of the Lenders, other than in connection with a merger, liquidation, dissolution or sale of such Person expressly permitted by the terms

hereof or the other Loan Documents, release any of the Borrowers or Guarantors from any obligation for the payment of money or consent to the assignment or transfer by any such Person of any of its rights or duties under this Agreement or the other Loan Documents;

(h) without the consent of all of the Lenders, amend Section 10.15; or

(i) No amendment of any provision of this Agreement relating to the Administrative Agent shall be effective without the written consent of the Administrative Agent, and no amendment of any provision relating to the Letter of Credit Issuer shall be effective without the written consent of the Letter of Credit Issuer. Notwithstanding anything to the contrary herein, the Administrative Agent may, with the consent of the Borrowers only, amend, modify or supplement this Agreement or any of the other Loan Documents to cure any ambiguity, omission, mistake, defect or inconsistency of a technical or immaterial nature, as determined in good faith by the Administrative Agent.

8.4 Preservation of Rights. No delay or omission of the Lenders, the Letter of Credit Issuer or the Administrative Agent to exercise any right under the Loan Documents shall impair such right or be construed to be a waiver of any Event of Default or an acquiescence therein, and the making of a Credit Extension notwithstanding the existence of an Event of Default or the inability of the Borrowers to satisfy the conditions precedent to such Credit Extension shall not constitute any waiver or acquiescence. Any single or partial exercise of any such right shall not preclude other or further exercise thereof or the exercise of any other right, and no waiver, amendment or other variation of the terms, conditions or provisions of the Loan Documents whatsoever shall be valid unless in writing signed by the Lenders required pursuant to Section 8.3, and then only to the extent in such writing specifically set forth. All remedies contained in the Loan Documents or by law afforded shall be cumulative and all shall be available to the Administrative Agent, the Letter of Credit Issuer and the Lenders until the Obligations have been paid in full.

ARTICLE IX

GENERAL PROVISIONS

9.1 Survival of Representations. All representations and warranties of the Borrowers contained in this Agreement shall survive the making of the Credit Extensions herein contemplated.

9.2 Governmental Regulation. Anything contained in this Agreement to the contrary notwithstanding, neither the Letter of Credit Issuer nor any Lender shall be obligated to extend credit to the Borrowers in violation of any limitation or prohibition provided by any applicable statute or regulation.

9.3 Headings. Section headings in the Loan Documents are for convenience of reference only, and shall not govern the interpretation of any of the provisions of the Loan Documents.

9.4 Entire Agreement. The Loan Documents embody the entire agreement and understanding among the Borrowers, the Administrative Agent, the Letter of Credit Issuer and the Lenders and supersede all prior agreements and understandings among the Borrowers, the Administrative Agent, the Letter of Credit Issuer and the Lenders relating to the subject matter thereof.

9.5 Several Obligations; Benefits of this Agreement. The respective obligations of the Lenders hereunder are several and not joint and no Lender shall be the partner or agent of any other (except to the extent to which the Administrative Agent is authorized to act as such). The failure of any Lender to perform any of its obligations hereunder shall not relieve any other Lender from any of its obligations hereunder. This Agreement shall not be construed so as to confer any right or benefit upon any Person other than the parties to this Agreement and their respective successors and assigns, *provided*, *however*, that for avoidance of doubt the Administrative Agent shall enjoy the benefits of the provisions of Sections 9.6, 9.10, 10.11 and the other provisions of this Agreement to the extent specifically set forth therein.

9.6 Expenses; Indemnification.

(a) The Borrowers shall reimburse the Administrative Agent upon demand for all reasonable out-of-pocket expenses paid or incurred by the Administrative Agent, including, without limitation, filing and recording costs and fees, costs of any environmental review, and consultants' fees, travel expenses and reasonable fees, charges and disbursements of outside counsel to the Administrative Agent incurred from time to time, in connection with the due diligence, preparation, administration, negotiation, execution, delivery, syndication, distribution (including, without limitation, via DebtX and any other internet service selected by the Administrative Agent), review, amendment, modification, and administration of the Loan Documents, and expenses incurred in connection with assessing and responding to any subpoena, garnishment or similar process served on the Administrative Agent relating to the Borrowers, any Collateral, any Guarantor, any Loan Document or the extensions of credit evidenced thereby. The Borrowers also agree to reimburse the Administrative Agent, the Letter of Credit Issuer and the Lenders for any costs, internal charges and out-of-pocket expenses, including, without limitation, filing and recording costs and fees, costs of any environmental review, and consultants' fees, travel expenses and reasonable fees, charges and disbursements of outside counsel to the Administrative Agent, the Letter of Credit Issuer and the Lenders incurred from time to time, paid or incurred by the Administrative Agent, the Letter of Credit Issuer or any Lender in connection with the collection and enforcement of the Loan Documents. Expenses being reimbursed by the Borrowers under this Section 9.6(a) include, without limitation, costs and expenses incurred in connection with the Reports described in the following sentence. The Borrowers acknowledge that from time to time Administrative Agent may prepare and may distribute to the Lenders (but shall have no obligation or duty to prepare or to distribute to the Lenders) certain audit reports (the "Reports") pertaining to the Borrowers' assets for internal use by Administrative Agent from information furnished to it by or on behalf of the Borrowers, after Administrative Agent has exercised its rights of inspection pursuant to this Agreement.

(b) The Borrowers hereby further agree to indemnify, defend and hold harmless the Administrative Agent, the Letter of Credit Issuer, each Lender, their respective affiliates, and each of their directors, officers and employees, agents and advisors (each, an "Indemnitee") against all losses, claims, damages, penalties, judgments, liabilities and expenses (including, without limitation, reasonable attorneys' fees, charges and disbursements and settlement costs (including, without limitation, all expenses of litigation or preparation therefor) whether or not the Administrative Agent, any Lender or any affiliate is a party thereto) which any such Indemnitee may pay or incur arising out of or relating to this Agreement, the other Loan Documents, the transactions contemplated hereby, any actual or alleged presence or release of Hazardous Materials on or from any Property owned or operated by the Borrowers or any of their Subsidiaries, any environmental liability related in any way to the Borrowers or any of their Subsidiaries, or any actual or prospective claim, litigation, investigation or proceeding relating to any of the foregoing, whether based on contract, tort or any other theory, whether brought by a third party or by the Borrowers or any of their Subsidiaries, or the direct or indirect application or proposed application of the proceeds of any Credit Extension hereunder except to the extent that there has been a final determination, whether by mutual agreement or judicial finding, that any such losses, claims, damages, penalties, judgments, liabilities and expenses resulted from the gross negligence or willful misconduct of the applicable Indemnitee. The obligations of the Borrowers under this Section 9.6 shall survive the termination of this Agreement.

9.7 Numbers of Documents. All statements, notices, closing documents, and requests hereunder shall be furnished to the Administrative Agent with sufficient counterparts so that the Administrative Agent may furnish one to each of the Lenders.

9.8 Accounting. Except as provided to the contrary herein, all accounting terms used herein shall be interpreted and all accounting determinations hereunder shall be made in accordance with GAAP in a manner consistent with that used in preparing the financial statements referenced in Section 5.4; provided that if the Borrowers notify the Administrative Agent that the Borrowers wish to amend any covenant in this Agreement (or any related definition) to eliminate or to take into account the effect of any change in GAAP or the application thereof on the operation of such covenant (or if the Administrative Agent notifies the Borrowers that the Required Lenders wish to amend any such covenant (or any related definition) for such purpose), then the Borrowers' compliance with such covenant shall be determined on the basis of GAAP in effect immediately before the relevant change in GAAP or the application thereof became effective, until either such notice is withdrawn or such covenant (or related definition) is amended in a manner satisfactory to the Borrowers and the Required Lenders..

9.9 Severability of Provisions. Any provision in any Loan Document that is held to be inoperative, unenforceable, or invalid in any jurisdiction shall, as to that jurisdiction, be inoperative, unenforceable, or invalid without affecting the remaining provisions in that jurisdiction or the operation, enforceability, or validity of that provision in any other jurisdiction, and to this end the provisions of all Loan Documents are declared to be severable.

9.10 Nonliability of Lenders. The relationship between the Borrowers on the one hand and the Lenders, the Letter of Credit Issuer and the Administrative Agent on the other hand shall be solely that of borrower and lender. Neither the Administrative Agent, the Letter of Credit Issuer nor any Lender shall have any fiduciary responsibilities to the Borrowers. Neither the Administrative Agent, the Letter of Credit Issuer nor any Lender undertakes any responsibility to the Borrowers to review or inform the Borrowers of any matter in connection with any phase of the Borrowers' business or operations. The Borrowers agree that neither the Administrative Agent, the Letter of Credit Issuer nor any Lender shall have liability to the Borrowers (whether sounding in tort, contract or otherwise) for losses suffered by the Borrowers in connection with, arising out of, or in any way related to, the transactions contemplated and the relationship established by the Loan Documents, or any act, omission or event occurring in connection therewith, unless it is determined in a final non-appealable judgment by a court of competent jurisdiction that such losses resulted from the gross negligence or willful misconduct of the party from which recovery is sought. Neither the Administrative Agent, the Letter of Credit Issuer nor any Lender shall have any liability with respect to, and the Borrowers hereby waive, release and agree not to sue for, any lost profits or special, indirect, consequential or punitive damages suffered by the Borrowers in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby; provided that nothing contained in this sentence shall limit or otherwise relieve the Borrowers' indemnity obligations.

9.11 Confidentiality. The Administrative Agent and each Lender agrees to hold any confidential information which it may receive from the Borrowers in connection with this Agreement in confidence, except for disclosure (i) to its Affiliates and to the Administrative Agent and any other Lender and their respective Affiliates, and, in each case, their respective employees, directors, and officers, (ii) to legal counsel, accountants, and other professional advisors to the Administrative Agent or such Lender provided such parties have been notified of the confidential nature of such information, (iii) as provided in Section 12.3(e), (iv) to regulatory officials, (v) to any Person as requested pursuant to or as required by law, regulation, or legal process, (vi) to any Person in connection with any legal proceeding to which it is a party, (vii) to its direct or indirect contractual counterparties in swap agreements or to legal counsel, accountants and other professional advisors to such counterparties provided such parties have been notified of the confidential nature of such information, (viii) to rating agencies if requested or required by such agencies in connection with a rating relating to the Advances hereunder, (ix) in connection with the exercise of any remedies hereunder or any suit, action or proceeding relating to this Agreement or any other Loan Document or the enforcement of rights hereunder or thereunder, and (x) to the extent such information (1) becomes publicly available other than as a result of a breach of this Section 9.11 or (2) becomes available to the Administrative Agent, the Letter of Credit Issuer or any other Lender of a non-confidential basis from a source other than the Borrowers.

9.12 Nonreliance. Each Lender hereby represents that it is not relying on or looking to any margin stock (as defined in Regulation U) for the repayment of the Credit Extensions provided for herein.

9.13 Disclosure. The Borrowers and each Lender hereby acknowledge and agree that UMB Bank, N.A. and/or its Affiliates from time to time may hold investments in, make other loans to or have other relationships with the Borrowers and their Affiliates.

9.14 USA PATRIOT ACT NOTIFICATION. The following notification is provided to each Borrower pursuant to Section 326 of the PATRIOT Act:

Each Lender that is subject to the requirements of the PATRIOT Act hereby notifies the Borrowers that pursuant to the requirements of the PATRIOT Act, it is required to obtain, verify and record information that identifies each Borrower, which information includes the name and address of such Borrower and other information that will allow such Lender to identify such Borrower in accordance with the PATRIOT Act.

9.15 Borrower Agent Designation; Nature of Relationship.

(a) Each Borrower herby irrevocably designates DBM Global Inc., as "Borrower Agent" to be its attorney and agent and in such capacity , whether verbally, in writing or through electronic methods to (i) borrow, (ii) request Advances, (iii) request the issuance of Facility Letters of Credit, (iv) sign and endorse notes, (v) execute and deliver all instruments, documents, application, security agreements, reimburse agreements and letter of credit agreements for Facility Letters of Credit and all other certificates, notice, writings and further assurances now or hereafter required hereunder, (vi) make elections regarding interest rate, (vii) give instructions regarding Facility Letters of Credit and agree with Letter of Credit Issuer upon any amendment, extension or renewal of any Facility Letter of Credit and (viii) otherwise take action under and in connection with this Agreement and the Loan Documents, all on behalf of and in the name such Borrower or Borrowers, and hereby authorizes Administrative Agent to pay over or credit all loan proceeds hereunder in accordance with the request of Borrower Agent.

(b) The handling of this credit facility as a co-borrowing facility with a borrower agent in the manner set forth in this Agreement is solely as an accommodation to Borrowers and at their request. Neither Administrative Agent nor any Lender shall incur liability to Borrowers as a result thereof. To induce Administrative Agent and Lenders to do so and in consideration thereof, each Borrower hereby indemnifies Administrative Agent and each Lender and holds Administrative Agent and each Lender harmless from and against any and all liabilities, expenses, losses, damages, and claims of damage or injury asserted against Administrative Agent or any Lender by any Person arising from or incurred by reason of the handling of the financing arrangements of Borrowers as provided herein, reliance by Administrative Agent or any Lender on any request or instruction from Borrower Agent or any other action taken by Administrative Agent or any Lender with respect to this Section 9.15 except due to willful misconduct or gross (not mere) negligence by the indemnified party (as determined by a court of competent jurisdiction in a final and non-appealable judgment).

(c) All Obligations shall be joint and several, and each Borrower shall make payment upon the maturity of the Obligations by acceleration or otherwise, and such

obligation and liability on the part of each Borrower shall in no way be affected by any extension, renewals and forbearance granted by Administrative Agent or any Lender to any Borrower, failure of Administrative Agent or any Lender to give any Borrower notice of borrowing or any other notice, any failure of Administrative Agent or any Lender to pursue or preserve its rights against any Borrower, the release by Administrative Agent or any Lender of any Collateral now or thereafter acquired from any Borrower, and such agreement by each Borrower to pay upon any noticed issued pursuant thereto is unconditional and unaffected by prior recourse by the lack thereof. Each Borrower waives all suretyship defenses.

9.16 Waiver of Subrogation. Each Borrower expressly waives any and all rights of subrogation, reimbursement, indemnity, exoneration, contribution of any other claim which such Borrower may now or hereafter have against any other Borrower liable for the Obligations hereunder, or against or with respect to any other Borrowers' property (including, without limitation, any property which is Collateral for the Obligations), arising from the existence or performance of this Agreement, until termination of this agreement and repayment in full of the Obligations (other than contingent indemnification obligations in respect of which no assertion of liability has been made).

9.17 Common Enterprise. The successful operation and condition of each of the Borrowers is dependent on the continued successful performance of the functions of the group of Borrowers as a whole and the successful operation of each Borrower is dependent on the successful performance and operation of each other Borrower. Each of the Borrowers expects to derive benefit (and its board of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from successful operations of each of the other Borrowers. Each Borrower expects to derive benefit (and the boards of directors or other governing body has determined that it may reasonably be expected to derive benefit), directly and indirectly, from the credit extended by the Lenders to the Borrowers hereunder, both in their separate capacities and as members of the group of companies. Each Borrower has determined that execution, delivery, and performance of this Agreement and any Loan Documents to be executed by such Borrower is within its corporate purpose, will be of direct and indirect benefit to such Borrower, and is in its best interest.

9.18 Concerning Joint and Several Liability of Borrowers.

(a) Each of the Borrowers is accepting joint and several liability hereunder in consideration of the financial accommodations to be provided by the Lenders under this Agreement and the other Loan Documents, for the mutual benefit, directly and indirectly, of each of the Borrowers and in consideration of the undertakings of each of the Borrowers to accept joint and several liability for the obligations of each of them.

(b) Each Borrower shall be jointly and severally liable for all amounts due to the Lenders under this Agreement and the other Loan Documents, regardless of which Borrower actually receives Loans or Credit Extensions hereunder or the amount of such Loans or other Credit Extensions received or the manner in which the Lenders account for such Loans or other Credit Extensions on its books and records. Each Borrower's Obligations with respect to Loans or other Credit Extensions made to it, and each

Borrower's Obligations arising as a result of the joint and several liability of such Borrower hereunder, with respect to Loans or other Credit Extensions made to the other Borrower hereunder, shall be separate and distinct obligations, but all such Obligations shall be primary obligations of each Borrower.

(c) If and to the extent that any of the Borrowers shall fail to make any payment with respect to any of the Obligations as and when due or to perform any of the Obligations in accordance with the terms thereof, then in each such event, the other Borrowers will make such payment with respect to, or perform, such Obligation.

(d) Each Borrower's Obligations arising as a result of the joint and several liability of such Borrower hereunder with respect to Loans or other Credit Extensions made to the other Borrowers hereunder shall, to the fullest extent permitted by law, be unconditional irrespective of (i) the validity or enforceability, avoidance or subordination of the Obligations of any other Borrower or of any promissory note or other document evidencing all or any part of the Obligations of any other Borrower, (ii) the absence of any attempt to collect the Obligations from any other Borrower, any other guarantor, or any other security therefor, or the absence of any other action to enforce the same, (iii) the waiver, consent, extension, forbearance or granting of any indulgence by the Administrative Agent or the Lenders with respect to any provision of any instrument evidencing the Obligations of any other Borrower, or any part thereof, or any other agreement now or hereafter executed by any other Borrower and delivered to the Administrative Agent or the Lenders, (iv) the failure by the Administrative Agent or the Lenders to take any steps to perfect and maintain their security interest in, or to preserve its rights to, any security or collateral for the Obligations of any other Borrower, (v) the Administrative Agent's or any Lender's election, in any proceeding instituted under the Bankruptcy Code of the United States, of the application of Section 1111(b)(2) of the Bankruptcy Code of the United States, (vi) any borrowing or grant of a security interest by any other Borrower, as Debtor In Possession under Section 364 of the Bankruptcy Code of the United States, (vii) the disallowance of all or any portion of the Administrative Agent's or any Lender's claim(s) for the repayment of the Obligations of any other Borrower under Section 502 of the Bankruptcy Code of the United States, or (viii) any other circumstances which might constitute a legal or equitable discharge or defense of a guarantor or of any other Borrower. With respect to each Borrower's Obligations arising as a result of the joint and several liability of such Borrower hereunder with respect to Loans or other Credit Extensions made to any other Borrower hereunder, such Borrower waives, until the Obligations shall have been paid in full and this Agreement and the other Loan Documents shall have been terminated, any right to enforce any right of subrogation or any remedy which the Administrative Agent or any Lender now has or may hereafter have against such other Borrower, any endorser or any guarantor of all or any part of the Obligations, and any benefit of, and any right to participate in, any security or collateral given to the Administrative Agent or any Lender to secure payment of the Obligations or any other liability of the Borrowers to the Administrative Agent or the Lenders.

(e) Upon the occurrence and during the continuation of any Event of Default, the Lenders may proceed directly and at once, without notice, against any Borrower to

collect and recover the full amount, or any portion of the Obligations, without first proceeding against the other Borrower or any other Person, or against any security or collateral for the Obligations. Each Borrower consents and agrees that the Lenders shall be under no obligation to marshal any assets in favor of any Borrower or against or in payment of any or all of the Obligations.

(f) Notwithstanding any provision to the contrary contained herein or in any other of the Loan Documents, the obligations of each Borrower hereunder shall be limited to an aggregate amount equal to the largest amount that would not render its obligations hereunder subject to avoidance under Section 548 of the Bankruptcy Code of the United States or any comparable provisions of any applicable Debtor Relief Laws.

9.19 Conflicts. Notwithstanding anything in this Agreement to the contrary, in the event of any conflict with any other Loan Document or Collateral Document, the terms and provisions of this Agreement shall control.

9.20 Closing Date Joinder. The Borrowers hereby represent, warrant and agree that the Banker Steel Acquisition will be consummated immediately upon the Lenders making the initial advance of the Loans and that there are no conditions to the Banker Steel Acquisition being effective other than the initial advance of the Loans. Immediately upon the consummation of the Banker Steel Acquisition, without further act or deed, each Banker Steel Borrower shall automatically be joined in this Agreement and the other Loan Documents as a Borrower and shall comply with and be bound by all of the terms, conditions, covenants and other provisions of this Agreement and the other Loan Documents. Without limiting the generality of the preceding sentence, the Banker Steel Borrowers are jointly and severally liable for the payment and performance of all Obligations and shall be bound by the provisions governing its joint and several obligations set forth in Section 9.18 and other applicable provisions of the Loan Documents. Each Banker Steel Borrower hereby (a) ratifies and affirms all of its obligations under this Agreement and the other Loan Documents; (b) affirms that this Agreement and each of the other Loan Documents is in full force and effect; and (c) ratifies and confirms all of its payment, performance and observance obligations and liabilities under this Agreement and the other Loan Documents, whether contingent or otherwise, as a borrower, debtor, grantor, mortgagor, pledgor, guarantor or assignor, or in any other similar capacities in which such Person grants Liens or security interests in its assets and other property, as the case may be, from and after the consummation of the Banker Steel Acquisition. Each Borrower, on behalf of itself and the other Borrowers, acknowledges, represents and warrants that (a) upon Lenders making the initial advance of the Loans, there will exist no Default or Event of Default under this Agreement or any other Loan Documents, (b) it has duly and properly performed, complied with and observed each of its covenants, agreements and obligations contained in this Agreement and the other Loan Documents to which it is a party, and (c) each of the representations and warranties contained in Article V of this Agreement or in any other Loan Document delivered on or before the date hereof is true and correct in all respects on the date hereof (or, to the extent stated to relate to a specific earlier date, on and as of such earlier date). Notwithstanding anything to the contrary contained herein or in any other Loan Document, the signature pages executed and delivered by the Banker Steel Borrowers to this Agreement and the other Loan Documents shall be deemed executed and delivered immediately upon the making of the initial

advance of the Loans and shall be given full force and effect at such time without any further act or deed required by any Person hereunder or thereunder.

ARTICLE X

THE ADMINISTRATIVE AGENT

10.1 Appointment; Nature of Relationship. UMB Bank, N.A. is hereby appointed by each of the Lenders as its contractual representative (herein referred to as the "Administrative Agent") hereunder and under each other Loan Document, and each of the Lenders irrevocably authorizes the Administrative Agent to act as the contractual representative of such Lender with the rights and duties expressly set forth herein and in the other Loan Documents. The Administrative Agent agrees to act as such contractual representative upon the express conditions contained in this Article X. Notwithstanding the use of the defined term "Administrative Agent," it is expressly understood and agreed that the Administrative Agent shall not have any fiduciary responsibilities to any Lender by reason of this Agreement or any other Loan Document and that the Administrative Agent is merely acting as the contractual representative of the Lenders with only those duties as are expressly set forth in this Agreement and the other Loan Documents. In its capacity as the Lenders' contractual representative, the Administrative Agent (i) does not hereby assume any fiduciary duties to any of the Lenders, and (ii) is a "representative" of the Lenders within the meaning of the term "secured party" as defined in the Arizona Uniform Commercial Code and (iii) is acting as an independent contractor, the rights and duties of which are limited to those expressly set forth in this Agreement and the other Loan Documents. Each of the Lenders hereby agrees to assert no claim against the Administrative Agent on any agency theory or any other theory of liability for breach of fiduciary duty, all of which claims each Lender hereby waives.

10.2 Powers. The Administrative Agent shall have and may exercise such powers under the Loan Documents as are specifically delegated to the Administrative Agent by the terms of each thereof, together with such powers as are reasonably incidental thereto. The Administrative Agent shall have no implied duties to the Lenders, or any obligation to the Lenders to take any action thereunder except any action specifically provided by the Loan Documents to be taken by the Administrative Agent.

10.3 General Immunity. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be liable to the Borrowers, the Lenders or any Lender for any action taken or omitted to be taken by it or them in the role of, or on behalf of, the Administrative Agent hereunder or under any other Loan Document or in connection herewith or therewith except to the extent there has been a final determination, whether by mutual agreement or judicial finding, that such action or inaction was due to the gross negligence or willful misconduct of such Person.

10.4 No Responsibility for Loans, Recitals, etc. Neither the Administrative Agent nor any of its directors, officers, agents or employees shall be responsible for or have any duty to ascertain, inquire into, or verify (a) any statement, warranty or representation made in connection with any Loan Document or any borrowing hereunder; (b) the performance or observance of any of the covenants or agreements of any obligor under any Loan Document, including, without

limitation, any agreement by an obligor to furnish information directly to each Lender; (c) the satisfaction of any condition specified in Article IV, except receipt of items required to be delivered solely to the Administrative Agent; (d) the existence or possible existence of any Default or Event of Default; (e) the validity, enforceability, effectiveness, sufficiency or genuineness of any Loan Document or any other instrument or writing furnished in connection therewith; (f) the value, sufficiency, creation, perfection or priority of any Lien in any collateral security; or (g) the financial condition of the Borrowers or any Guarantor of any of the Obligations or of any of the Borrowers' or any such Guarantor's respective Subsidiaries.

10.5 Action on Instructions of Lenders. The Administrative Agent shall in all cases be fully protected in acting, or in refraining from acting, hereunder and under any other Loan Document in accordance with written instructions signed by the Required Lenders (which may include electronic mail), and such instructions and any action taken or failure to act pursuant thereto shall be binding on all of the Lenders. The Lenders hereby acknowledge that the Administrative Agent shall be under no duty to take any discretionary action permitted to be taken by it pursuant to the provisions of this Agreement or any other Loan Document unless it shall be requested in writing to do so by the Required Lenders. The Administrative Agent shall be fully justified in failing or refusing to take any action hereunder and under any other Loan Document unless it shall first be indemnified to its satisfaction by the Lenders pro rata against any and all liability, cost and expense that it may incur by reason of taking or continuing to take any such action. The Administrative Agent may, at any time, request instructions from the Required Lenders with respect to any actions or approvals which, by the terms of this Agreement or any of the Loan Documents, the Administrative Agent is permitted or required to take or to grant without consent or approval from the Required Lenders, and if such instructions are promptly requested, the Administrative Agent will be absolutely entitled to refrain from taking any action or to withhold any approval under any of the Loan Documents and will not have any liability for refraining from taking any action or withholding any approval under any of the Loan Documents until it has received such instructions from the Required Lenders.

10.6 Employment of Agents and Counsel. The Administrative Agent may execute any of its duties as Administrative Agent hereunder and under any other Loan Document by or through employees, agents, and attorneys-in-fact. The Administrative Agent will not be responsible for the negligence or misconduct of any agents or attorneys-in-fact except to the extent that there has been a final determination, whether by mutual agreement or judicial finding, that the Administrative Agent acted with gross negligence or willful misconduct in the selection of agents or attorneys-in-fact.

10.7 Reliance on Documents; Counsel. The Administrative Agent shall be entitled to rely upon any Note, notice, consent, certificate, affidavit, letter, telegram, facsimile, telex, electronic mail message, statement, paper or document believed by it to be genuine and correct and to have been signed or sent by the proper Person or Persons, and, in respect to legal matters, upon the opinion of counsel selected by the Administrative Agent, which counsel may be employees of the Administrative Agent. For purposes of determining compliance with the conditions specified in Sections 4.1 and 4.2, each Lender that has signed this Agreement shall be deemed to have consented to, approved or accepted or to be satisfied with, each document or other matter required thereunder to be consented to or approved by or acceptable or satisfactory

to a Lender unless the Administrative Agent shall have received notice from such Lender prior to the applicable date specifying its objection thereto.

10.8 Administrative Agent's Reimbursement and Indemnification. The Lenders agree to reimburse and indemnify the Administrative Agent ratably in proportion to their respective Pro Rata Shares (i) for any amounts not reimbursed by the Borrowers for which the Administrative Agent is entitled to reimbursement by the Borrowers under the Loan Documents, (ii) for any other expenses incurred by the Administrative Agent on behalf of the Lenders, in connection with the preparation, execution, delivery, administration and enforcement of the Loan Documents (including, without limitation, for any expenses incurred by the Administrative Agent in connection with any dispute between the Administrative Agent and any Lender or between two or more of the Lenders) and (iii) for any liabilities, obligations, losses, damages, penalties, actions, judgments, suits, costs, expenses or disbursements of any kind and nature whatsoever which may be imposed on, incurred by or asserted against the Administrative Agent in any way relating to or arising out of the Loan Documents or any other document delivered in connection therewith or the transactions contemplated thereby (including, without limitation, for any such amounts incurred by or asserted against the Administrative Agent in connection with any dispute between the Administrative Agent and any Lender or between two or more of the Lenders), or the enforcement of any of the terms of the Loan Documents or of any such other documents, *provided* that (i) no Lender shall be liable for any of the foregoing to the extent any of the foregoing is found in a final non-appealable judgment by a court of competent jurisdiction to have resulted from the gross negligence or willful misconduct of the Administrative Agent and (ii) any indemnification required pursuant to Section 3.3(d) shall, notwithstanding the provisions of this Section 10.8, be paid by the relevant Lender in accordance with the provisions thereof. The obligations of the Lenders under this Section 10.8 shall survive payment of the Obligations and termination of this Agreement.

10.9 Notice of Event of Default. The Administrative Agent shall not be deemed to have knowledge or notice of the occurrence of any Default or Event of Default hereunder unless the Administrative Agent has received written notice from a Lender or the Borrowers referring to this Agreement describing such Default or Event of Default and stating that such notice is a "notice of default". In the event that the Administrative Agent receives such a notice, the Administrative Agent shall give prompt notice thereof to the Lenders; *provided* that, except as expressly set forth in the Loan Documents, the Administrative Agent shall not have any duty to disclose, and shall not be liable for the failure to disclose, any information relating to the Borrowers or any of their Subsidiaries that is communicated to or obtained by the bank serving as Administrative Agent or any of its Affiliates in any capacity.

10.10 Rights as a Lender. In the event the Administrative Agent is a Lender, the Administrative Agent shall have the same rights and powers hereunder and under any other Loan Document with respect to its Revolving Commitment and its Loans as any Lender and may exercise the same as though it were not the Administrative Agent, and the term "Lender" or "Lenders" shall, at any time when the Administrative Agent is a Lender, unless the context otherwise indicates, include the Administrative Agent in its individual capacity. The Administrative Agent and its Affiliates may accept deposits from, lend money to, and generally engage in any kind of trust, debt, equity or other transaction, in addition to those contemplated by this Agreement or any other Loan Document, with the Borrowers or any of their Subsidiaries in

which the Borrowers or Subsidiaries is not restricted hereby from engaging with any other Person.

10.11 Lender Credit Decision, Legal Representation.

(a) Each Lender acknowledges that it has, independently and without reliance upon the Administrative Agent or any other Lender and based on the financial statements prepared by the Borrowers and such other documents and information as it has deemed appropriate, made its own credit analysis and decision to enter into this Agreement and the other Loan Documents. Each Lender also acknowledges that it will, independently and without reliance upon the Administrative Agent or any other Lender and based on such documents and information as it shall deem appropriate at the time, continue to make its own credit decisions in taking or not taking action under this Agreement and the other Loan Documents. Except for any notice, report, document or other information expressly required to be furnished to the Lenders by the Administrative Agent hereunder, the Administrative Agent shall not have any duty or responsibility (either initially or on a continuing basis) to provide any Lender with any notice, report, document, credit information or other information concerning the affairs, financial condition or business of the Borrowers or any of their Affiliates that may come into the possession of the Administrative Agent (whether or not in their capacity as Administrative Agent) or any of their Affiliates; provided, that Administrative Agent shall promptly provide to each Lender such information as may be specifically requested by such Lender.

(b) Each Lender further acknowledges that it has had the opportunity to be represented by legal counsel in connection with its execution of this Agreement and the other Loan Documents, that it has made its own evaluation of all applicable laws and regulations relating to the transactions contemplated hereby, and that the counsel to the Administrative Agent represents only the Administrative Agent and not the Lenders in connection with this Agreement and the transactions contemplated hereby.

10.12 Successor Administrative Agent. The Administrative Agent may resign at any time by giving written notice thereof to the Lenders and Holdings, such resignation to be effective upon the appointment of a successor Administrative Agent or, if no successor Administrative Agent has been appointed, thirty (30) days after the resigning Administrative Agent gives notice of its intention to resign. Upon any such resignation, the Required Lenders shall have the right to appoint, on behalf of the Borrowers and the Lenders, a successor Administrative Agent. So long as no Event of Default has occurred, Holdings shall have the right to approve any such successor Administrative Agent and such approval shall not be unreasonably withheld. If no successor Administrative Agent shall have been so appointed by the Required Lenders within fifteen (15) days after the resigning Administrative Agent's giving notice of its intention to resign, then the resigning Administrative Agent may appoint, on behalf of the Borrowers and the Lenders, a successor Administrative Agent. Notwithstanding the previous sentence, the Administrative Agent may at any time without the consent of the Borrowers or any Lender, appoint any of its Affiliates which is a commercial bank as a successor Administrative Agent hereunder. If the Administrative Agent has resigned and no successor Administrative Agent has been appointed, the Lenders may perform all the duties of the Administrative Agent hereunder and the Borrowers shall make all payments in respect of the Obligations to the

applicable Lender and for all other purposes shall deal directly with the Lenders. No successor Administrative Agent shall be deemed to be appointed hereunder until such successor Administrative Agent has accepted the appointment. Upon the acceptance of any appointment as Administrative Agent hereunder by a successor Administrative Agent, such successor Administrative Agent shall thereupon succeed to and become vested with all the rights, powers, privileges and duties of the resigning Administrative Agent. Upon the effectiveness of the resignation of the Administrative Agent, the resigning Administrative Agent shall be discharged from its duties and obligations hereunder and under the Loan Documents. After the effectiveness of the resignation of an Administrative Agent, the provisions of this Article X shall continue in effect for the benefit of such Administrative Agent in respect of any actions taken or omitted to be taken by it while it was acting as the Administrative Agent hereunder and under the other Loan Documents. In the event that there is a successor to the Administrative Agent by merger, or the Administrative Agent assigns its duties and obligations to an Affiliate pursuant to this Section 10.12, then the term "Prime Rate" as used in this Agreement shall mean the prime rate or other analogous rate of the new Administrative Agent.

10.13 Delegation to Affiliates. The Borrowers and the Lenders agree that the Administrative Agent may delegate any of its duties under this Agreement to any of its Affiliates. Any such Affiliate (and such Affiliate's directors, officers, agents and employees) which performs duties in connection with this Agreement shall be entitled to the same benefits of the indemnification, waiver and other protective provisions to which the Administrative Agent is entitled under Articles IX and X.

10.14 Execution of Collateral Documents. The Lenders hereby empower and authorize the Administrative Agent to execute and deliver to the Borrowers on their behalf the Collateral Documents and all related financing statements and any financing statements, agreements, documents or instruments as shall be necessary or appropriate to effect the purposes of the Collateral Documents.

10.15 Collateral and Guarantor Releases. The Lenders hereby empower and authorize the Administrative Agent to execute and deliver to the Borrowers on their behalf any agreements, documents or instruments as shall be necessary or appropriate to effect any releases of Collateral which shall be permitted by the terms hereof or of any other Loan Document (including, without limitation, in connection with any asset sale permitted hereunder or in connection with any release of a Guarantor made in accordance with the Loan Documents) or which shall otherwise have been approved by the Required Lenders (or, if required by the terms of Section 8.3, all of the Lenders) in writing. In addition, the Lenders authorize the Administrative Agent to release any Guarantor from its obligations under the Loan Documents if such Person is no longer required to be a Guarantor hereunder or if such Person is sold, transferred or assigned in accordance with and to the extent permitted by the terms of this Agreement. Upon the request of the Administrative Agent at any time, the Required Lenders will confirm in writing the Administrative Agent's authority to release or subordinate its interest in particular types or items of Collateral, or to release any Guarantor from its obligations under the Loan Documents pursuant to the foregoing. In each case as specified herein, the Administrative Agent may (and each Lender hereby authorizes the Administrative Agent to), at the Borrowers' expense, execute and deliver to the applicable Borrower such documents as such Borrower may reasonably request to evidence the release of such item of Collateral from the security interest granted under the

Loan Documents or to subordinate its interest therein, or to release a Guarantor from its obligations under the Guaranty, in each case in accordance with the terms of the Loan Documents.

10.16 No Advisory or Fiduciary Responsibility. In connection with all aspects of each transaction contemplated hereby (including in connection with any amendment, waiver or other modification hereof or of any other Loan Document), each Borrower acknowledges and agrees that: (i) (A) the arranging and other services regarding this Agreement provided by the Administrative Agent and the Lenders are arm's-length commercial transactions between the applicable Borrower and its Affiliates, on the one hand, and the Administrative Agent and the Lenders, on the other hand, (B) each Borrower has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (C) each Borrower is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated hereby and by the other Loan Documents; (ii) (A) each of the Administrative Agent and the Lenders is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary for the applicable Borrower or any of its Affiliates, or any other Person and (B) neither the Administrative Agent nor any Lender has any obligation to each Borrower or any of its Affiliates with respect to the transactions contemplated hereby except those obligations expressly set forth herein and in the other Loan Documents; and (iii) the Administrative Agent and each of the Lenders and their respective Affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Borrowers and their Affiliates, and neither the Administrative Agent nor any Lender has any obligation to disclose any of such interests to the Borrowers or its Affiliates. To the fullest extent permitted by law, the Borrowers hereby waive and release any claims that they may have against the Administrative Agent and each of the Lenders with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transaction contemplated hereby. Nothing contained in this Section 10.16 shall serve to release, eliminate, or otherwise reduce any duty or obligation of any party to perform its obligations under this Agreement.

10.17 Acknowledgements Regarding Erroneous Payments.

(a) Each Lender and Letter of Credit Issuer hereby agrees that (i) if the Administrative Agent notifies such Lender or such Letter of Credit Issuer that the Administrative Agent has determined in its sole discretion that any funds received by such Lender or such Letter of Credit Issuer from the Administrative Agent or any of its Affiliates (whether as a payment, prepayment or repayment of principal, interest, fees or otherwise; individually and collectively, a "Payment") were erroneously transmitted to such Lender or such Letter of Credit Issuer (whether or not known to such Lender or such Letter of Credit Issuer), and demands the return of such Payment (or a portion thereof), such Lender or such Letter of Credit Issuer shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds (in the currency so received), together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or such Letter of Credit Issuer to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect;

and (ii) to the extent permitted by applicable law, such Lender or such Letter of Credit Issuer shall not assert, and hereby waives, as to the Administrative Agent, any claim, counterclaim, defense or right of set-off or recoupment with respect to any demand, claim or counterclaim by the Administrative Agent for the return of any Payments received, including without limitation any defense based on "discharge for value" or any similar doctrine. A notice of the Administrative Agent to any Lender or such Letter of Credit Issuer under this Section 10.17 shall be conclusive, absent manifest error.

(b) Each Lender and Letter of Credit Issuer hereby further agrees that if it receives a Payment from the Administrative Agent or any of its Affiliates (i) that is in a different amount than, or on a different date from, that specified in a notice of payment sent by the Administrative Agent (or any of its Affiliates) with respect to such Payment (a "Payment Notice") or (ii) that was not preceded or accompanied by a Payment Notice, it shall be on notice, in each such case, that an error has been made with respect to such Payment. Each Lender and Letter of Credit Issuer agrees that, in each such case, or if it otherwise becomes aware a Payment (or portion thereof) may have been sent in error, such Lender or Letter of Credit Issuer shall promptly notify the Administrative Agent of such occurrence and, upon demand from the Administrative Agent, it shall promptly, but in no event later than one Business Day thereafter, return to the Administrative Agent the amount of any such Payment (or portion thereof) as to which such a demand was made in same day funds, together with interest thereon in respect of each day from and including the date such Payment (or portion thereof) was received by such Lender or Letter of Credit Issuer to the date such amount is repaid to the Administrative Agent at the greater of the Federal Funds Effective Rate and a rate determined by the Administrative Agent in accordance with banking industry rules on interbank compensation from time to time in effect.

(c) Borrowers and Guarantors hereby agree that (i) in the event an erroneous Payment (or portion thereof) is not recovered from any Lender or such Letter of Credit Issuer that has received such Payment (or portion thereof) for any reason, the Administrative Agent shall be subrogated to all the rights of such Lender or such Letter of Credit Issuer with respect to such amount and (ii) an erroneous Payment shall not pay, prepay, repay, discharge or otherwise satisfy any Obligations owed by any Borrower or Guarantor.

(d) Each party's obligations under this Section 10.17 shall survive the resignation or replacement of the Administrative Agent or any transfer of rights or obligations by, or the replacement of, a Lender or a Letter of Credit Issuer, the termination of the Commitments or the repayment, satisfaction or discharge of all Obligations under any Loan Document.

10.18 Other Agents; Arrangers and Managers. None of the Lenders or other Persons identified on the facing page or signature pages of this Agreement as a "syndication agent," "documentation agent," "co-agent," "book manager," "bookrunner," "lead manager," "arranger," "lead arranger" or "co-arranger," if any, shall have any right, power, obligation, liability, responsibility or duty under this Agreement other than, in the case of such Lenders, those applicable to all Lenders as such. Without limiting the foregoing, none of the Lenders or other Persons so identified shall have or be deemed to have any fiduciary relationship with any Lender. Each Lender acknowledges that it has not relied, and will not rely, on any of the Lenders or other

Persons so identified in deciding to enter into this Agreement or in taking or not taking action hereunder.

ARTICLE XI

SETOFF; RATABLE PAYMENTS

11.1 Setoff. Each Borrower hereby grants each Lender a security interest in all deposits, credits and deposit accounts (including all account balances, whether provisional or final and whether or not collected or available) of the applicable Borrower with such Lender or any Affiliate of such Lender (the "Deposits") to secure the Obligations. In addition to, and without limitation of, any rights of the Lenders under applicable law, if the applicable Borrower becomes insolvent, however evidenced, or any Event of Default occurs, such Borrower authorizes each Lender, with the prior written consent of the Administrative Agent, to offset and apply all such Deposits toward the payment of the Obligations owing to such Lender, whether or not the Obligations, or any part thereof, shall then be due and regardless of the existence or adequacy of any collateral, guaranty or any other security, right or remedy available to such Lender or the Lenders; *provided*, that in the event that any Defaulting Lender shall exercise such right of setoff, (x) all amounts so set off shall be paid over immediately to the Administrative Agent for further application in accordance with the provisions of Section 2.17 and, pending such payment, shall be segregated by such Defaulting Lender from its other funds and deemed held in trust for the benefit of the Administrative Agent, the Letter of Credit Issuer, and the Lenders, and (y) the Defaulting Lender shall provide promptly to the Administrative Agent a statement describing in reasonable detail the Obligations owing to such Defaulting Lender as to which it exercised such right of setoff.

11.2 Ratable Payments. If any Lender, whether by setoff or otherwise, has payment made to it upon its Term Loan or its Revolving Exposure (other than payments received pursuant to Section 3.1, 3.2, or 3.3) in a greater proportion than that received by any other Lender, such Lender agrees, promptly upon demand, to purchase a portion of the Term Loan or Revolving Exposure, as applicable, held by the other Lenders so that after such purchase each Lender will hold its Pro Rata Share of the Term Loan and Revolving Exposure. If any Lender, whether in connection with setoff or amounts which might be subject to setoff or otherwise, receives collateral or other protection for its Obligations or such amounts which may be subject to setoff, such Lender agrees, promptly upon demand, to take such action necessary such that all Lenders share in the benefits of such collateral or other protection ratably in proportion to their respective Pro Rata Shares of the Term Loan and Revolving Exposure. In case any such payment is disturbed by legal process, or otherwise, appropriate further adjustments shall be made.

ARTICLE XII

BENEFIT OF AGREEMENT; ASSIGNMENTS; PARTICIPATIONS

12.1 Successors and Assigns. The terms and provisions of the Loan Documents shall be binding upon and inure to the benefit of the Borrowers and the Lenders and their respective successors and assigns permitted hereby, except that (i) none of the Borrowers shall have the right to assign its rights or obligations under the Loan Documents without the prior written

consent of each Lender, (ii) any assignment by any Lender must be made in compliance with Section 12.3, and (iii) any transfer by participation must be made in compliance with Section 12.2. Any attempted assignment or transfer by any party not made in compliance with this Section 12.1 shall be null and void, unless such attempted assignment or transfer is treated as a participation in accordance with the terms of this Agreement. The parties to this Agreement acknowledge that clause (ii) of this Section 12.1 relates only to absolute assignments and this Section 12.1 does not prohibit assignments creating security interests, including, without limitation, (x) any pledge or assignment by any Lender of all or any portion of its rights under this Agreement and any Note to a Federal Reserve Bank or (y) in the case of a Lender which is a Fund, any pledge or assignment of all or any portion of its rights under this Agreement and any Note to its trustee in support of its obligations to its trustee; *provided*, *however*, that no such pledge or assignment creating a security interest shall release the transferor Lender from its obligations hereunder unless and until the parties thereto have complied with the provisions of Section 12.3. The Administrative Agent may treat the Person which made any Loan or which holds any Note as the owner thereof for all purposes hereof unless and until such Person complies with Section 12.3; *provided, however*, that the Administrative Agent may in its discretion (but shall not be required to) follow instructions from the Person which made any Loan or which holds any Note to direct payments relating to such Loan or Note to another Person. Any assignee of the rights to any Loan or any Note agrees by acceptance of such assignment to be bound by all the terms and provisions of the Loan Documents. Any request, authority or consent of any Person, who at the time of making such request or giving such authority or consent is the owner of the rights to any Loan (whether or not a Note has been issued in evidence thereof), shall be conclusive and binding on any subsequent holder or assignee of the rights to such Loan.

12.2 Participations.

(a) Permitted Participants; Effect. Any Lender may at any time sell to one or more entities ("Participants") participating interests in any Term Loan or Revolving Exposure owing to such Lender, any Note held by such Lender, any Revolving Commitment of such Lender or any other interest of such Lender under the Loan Documents. So long as no Event of Default has occurred, Holdings shall have the right to approve any such successor Participants and such approval shall not be unreasonably withheld. In the event of any such sale by a Lender of participating interests to a Participant, such Lender's obligations under the Loan Documents shall remain unchanged, such Lender shall remain solely responsible to the other parties hereto for the performance of such obligations, such Lender shall remain the owner of its Term Loan and Revolving Exposure and the holder of any Note issued to it in evidence thereof for all purposes under the Loan Documents, all amounts payable by the Borrowers under this Agreement shall be determined as if such Lender had not sold such participating interests, and the Borrowers and the Administrative Agent shall continue to deal solely and directly with such Lender in connection with such Lender's rights and obligations under the Loan Documents.

(b) Voting Rights. Each Lender shall retain the sole right to approve, without the consent of any Participant, any amendment, modification or waiver of any provision of the Loan Documents *provided* that each such Lender may agree in its participation

agreement with its Participant that such Lender will not vote to approve any amendment, modification or waiver with respect to any Term Loan, Revolving Exposure or Revolving Commitment in which such Participant has an interest which would require consent of all of the Lenders pursuant to the terms of Section 8.3 or of any other Loan Document.

(c) Benefit of Certain Provisions. The Borrowers agree that each Participant shall be deemed to have the right of setoff provided in Section 11.1 in respect of its participating interest in amounts owing under the Loan Documents to the same extent as if the amount of its participating interest were owing directly to it as a Lender under the Loan Documents, *provided* that each Lender shall retain the right of setoff provided in Section 11.1 with respect to the amount of participating interests sold to each Participant. The Lenders agree to share with each Participant, and each Participant, by exercising the right of setoff provided in Section 11.1, agrees to share with each Lender, any amount received pursuant to the exercise of its right of setoff, such amounts to be shared in accordance with Section 11.2 as if each Participant were a Lender. The Borrowers further agree that each Participant shall be entitled to the benefits of Sections 3.1, 3.2, 3.3, 9.6 and 9.10 to the same extent as if it were a Lender and had acquired its interest by assignment pursuant to Section 12.3, *provided* that (i) a Participant shall not be entitled to receive any greater payment under Section 3.1 or 3.2 than the Lender who sold the participating interest to such Participant would have received had it retained such interest for its own account, unless the sale of such interest to such Participant is made with the prior written consent of the Borrowers, and (ii) a Participant shall not be entitled to receive any greater payment under Section 3.3 than the Lender who sold the participating interest to such Participant would have received had it retained such interest for its own account (A) except to the extent such entitlement to receive a greater payment results from a change in treaty, law or regulation (or any change in the interpretation or administration thereof by any Governmental Authority) that occurs after the Participant acquired the applicable participation and (B), in the case of any Participant that would be a Non-U.S. Lender if it were a Lender, such Participant agrees to comply with the provisions of Section 3.3 to the same extent as if it were a Lender (it being understood that the documentation required under Section 3.3(f) shall be delivered to the participating Lender). Each Lender that sells a participation shall, acting solely for this purpose as a non-fiduciary agent of the Borrowers, maintain a register on which it enters the name and address of each Participant and the principal amounts (and stated interest) of each Participant's interest in any Term Loan, any Revolving Exposure, any Note, any Revolving Commitment or any other obligations under the Loan Documents (the "Participant Register"); *provided* that no Lender shall have any obligation to disclose all or any portion of the Participant Register (including the identity of any Participant or any information relating to a Participant's interest in any Term Loan, any Revolving Exposure, any Note, any Revolving Commitment or any other obligations under the Loan Documents) to any Person except to the extent that such disclosure is necessary to establish that such Term Loan, Revolving Exposure, any Note, any Revolving Commitment or any other obligations under the Loan Documents is in registered form under Section 5f.103-1(c) of the United States Treasury Regulations. The entries in the Participant Register shall be conclusive absent manifest error, and such Lender shall treat each Person whose name is recorded in the Participant Register as the owner of such

participation for all purposes of this Agreement notwithstanding any notice to the contrary. For the avoidance of doubt, the Administrative Agent (in its capacity as Administrative Agent) shall have no responsibility for maintaining a Participant Register.

12.3 Assignments.

(a) Permitted Assignments. Any Lender may at any time assign to one or more Eligible Assignees ("Purchasers") all or any part of its rights and obligations under the Loan Documents subject to Holdings' consent rights provided in Section 12.3(b), which shall not be unreasonably withheld. Such assignment shall be substantially in the form of Exhibit C or in such other form reasonably acceptable to the Administrative Agent as may be agreed to by the parties thereto. Each such assignment with respect to a Purchaser which is not a Lender or an Affiliate of a Lender shall either be in an amount equal to the entire applicable Term Loan, Revolving Commitment and Revolving Exposure of the assigning Lender or (unless each of the Borrowers and the Administrative Agent otherwise consents) be in an aggregate amount not less than $5,000,000 (except such minimum amount shall not apply to (i) an assignment or delegation by any Lender to any other Lender, an Affiliate of any Lender, or a Related Fund of such Lender or (ii) a group of new Lenders, each of which is an Affiliate of each other or a Related Fund of such new Lender to the extent that the aggregate amount to be assigned to all such new Lenders is at least $5,000,000). The amount of the assignment shall be based on the Term Loan and the Revolving Commitment or Revolving Exposure (if the Revolving Commitment has been terminated) subject to the assignment, determined as of the date of such assignment or as of the "Trade Date," if the "Trade Date" is specified in the assignment.

(b) Consents. The consent of Holdings shall be required prior to an assignment becoming effective unless the Purchaser is a Lender or an Affiliate of a Lender, *provided* that the consent of Holdings shall not be required if (i) an Event of Default has occurred and is continuing, (ii) in connection with an assignment or a delegation to a Person that is a Lender or an Affiliate (other than natural persons) of a Lender, (iii) if such assignment or delegation is in connection with a sale or other disposition of all or substantially all of any Lender's loan portfolio, or (iv) such assignment or delegation is required or deemed advisable by any Governmental Authority to which Administrative Agent or any Lender is subject; *provided further* that Holdings shall be deemed to have consented to any such assignment unless it shall object thereto by written notice to the Administrative Agent within three (3) Business Days after having received notice thereof. The consent of the Administrative Agent shall be required prior to an assignment becoming effective. The consent of the Letter of Credit Issuer shall be required prior to an assignment of a Revolving Commitment becoming effective. Any consent required under this Section 12.3(b) other than with respect to the Letter of Credit Issuer shall not be unreasonably withheld or delayed.

(c) Effect; Assignment Effective Date. Upon (i) delivery to the Administrative Agent of an assignment, together with any consents required by Sections 12.3(a) and 12.3(b), and (ii) payment of a $5,000 fee to the Administrative Agent for processing such assignment (unless such fee is waived by the Administrative Agent), such assignment

shall become effective on the effective date specified in such assignment. The assignment shall contain a representation by the Purchaser to the effect that none of the consideration used to make the purchase of the Term Loan, Revolving Commitment and Revolving Exposure, as applicable, under the applicable assignment agreement constitutes "plan assets" as defined under ERISA and that the rights and interests of the Purchaser in and under the Loan Documents will not be "plan assets" under ERISA. On and after the effective date of such assignment, such Purchaser shall for all purposes be a Lender party to this Agreement and any other Loan Document executed by or on behalf of the Lenders and shall have all the rights and obligations of a Lender under the Loan Documents, to the same extent as if it were an original party thereto, and the transferor Lender shall be released with respect to the Term Loan, Revolving Commitment and Revolving Exposure assigned to such Purchaser without any further consent or action by the Borrowers, the Lenders or the Administrative Agent. In the case of an assignment covering all of the assigning Lender's rights and obligations under this Agreement, such Lender shall cease to be a Lender hereunder but shall continue to be entitled to the benefits of, and subject to, those provisions of this Agreement and the other Loan Documents which survive payment of the Obligations and termination of the applicable agreement. Any assignment or transfer by a Lender of rights or obligations under this Agreement that does not comply with this Section 12.3 shall be treated for purposes of this Agreement as a sale by such Lender of a participation in such rights and obligations in accordance with Section 12.2. Upon the consummation of any assignment to a Purchaser pursuant to this Section 12.3(c), the transferor Lender, the Administrative Agent and the Borrowers shall, if the transferor Lender or the Purchaser desires that its Loans be evidenced by Notes, make appropriate arrangements so that new Notes or, as appropriate, replacement Notes are issued to such transferor Lender and new Notes or, as appropriate, replacement Notes, are issued to such Purchaser, in each case in principal amounts reflecting their respective Term Loans and Revolving Commitments, as adjusted pursuant to such assignment.

(d) Register. The Administrative Agent, acting solely for this purpose as a non- fiduciary agent of the Borrowers, shall maintain at one of its offices in the United States of America, a copy of each Assignment and Assumption delivered to it and a register for the recordation of the names and addresses of the Lenders, and the Term Loans and Revolving Commitments of, and principal amounts (and stated interest) of the Loans owing to, each Lender, and participations of each Lender in Facility Letters of Credit, pursuant to the terms hereof from time to time (the "Register"). The entries in the Register shall be conclusive, and the Borrowers, the Administrative Agent and the Lenders may treat each Person whose name is recorded in the Register pursuant to the terms hereof as a Lender hereunder for all purposes of this Agreement, notwithstanding notice to the contrary. The Register shall be available for inspection by each Borrower and each Lender at any reasonable time and from time to time upon reasonable prior notice.

(e) Dissemination of Information. The Borrowers authorize each Lender to disclose to any Participant or Purchaser or any other Person acquiring an interest in the Loan Documents by operation of law (each a "Transferee") and any prospective Transferee any and all information in such Lender's possession; *provided* that each Transferee and prospective Transferee agrees to be bound by Section 9.11 of this

Agreement.

ARTICLE XIII

NOTICES

13.1 Notices; Effectiveness; Electronic Communication.

(a) Notices Generally. Except in the case of notices and other communications expressly permitted to be given by telephone (and except as provided in paragraph (b) below), all notices and other communications provided for herein shall be in writing and shall be delivered by hand or overnight courier service, mailed by certified or registered mail or sent by facsimile as follows:

If to the Borrowers:

DBM Global Inc.
3020 East Camelback Road
Suite 310
Phoenix, Arizona 85016
Telephone: (602) 445-4480
Attn: Scott D. Sherman, Esq.

If to Administrative Agent:

UMB Bank, N.A.
2777 E. Camelback Rd., Suite 350
Phoenix, AZ 85016
Attn: Kyle McMillian

With a copy to: UMB Bank, N.A.
2777 E. Camelback Rd., Suite 350
Phoenix, AZ 85016
Attn: Kyle McMillian

UMB Bank, N.A.
1010 Grand Blvd.
Kansas City, MO 64106
Attn: Derek E. Feagans

and

Quarles & Brady, LLP
411 East Wisconsin Avenue

Milwaukee, Wisconsin 53202
Attention: Kim Wynn

Notices sent by hand or overnight courier service, or mailed by certified or registered mail, shall be deemed to have been given when received, except that notices to the Administrative Agent, a Lender or the Letter of Credit Issuer under Article II shall not be effective unless and until actually received by the addressee thereof. Notices delivered through electronic communications to the extent provided in paragraph (b) below, shall be effective as provided in said paragraph (b).

(b) Electronic Communications. Notices and other communications to the Lenders and the Letter of Credit Issuer hereunder may be delivered or furnished by electronic communication (including e-mail and internet or intranet websites) pursuant to procedures approved by the Administrative Agent or as otherwise determined by the Administrative Agent, *provided* that the foregoing shall not apply to notices to any Lender or the Letter of Credit Issuer pursuant to Article II if such Lender or the Letter of Credit Issuer, as applicable, has notified the Administrative Agent that it is incapable of receiving notices under such Article by electronic communication. The Administrative Agent or the Borrowers may agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it or as it otherwise determines, *provided* that such determination or approval may be limited to particular notices or communications. Unless the Administrative Agent otherwise prescribes, (i) notices and other communications sent to an e-mail address shall be deemed received upon the sender's receipt of an acknowledgement from the intended recipient (such as by the "return receipt requested" function, as available, return e-mail or other written acknowledgement), *provided* that if such notice or other communication is not given during the normal business hours of the recipient, such notice or communication shall be deemed to have been given at the opening of business on the next Business Day for the recipient, and (ii) notices or communications posted to an Internet or intranet website shall be deemed received upon the deemed receipt by the intended recipient at its e-mail address as described in the foregoing clause (i) of notification that such notice or communication is available and identifying the website address therefor.

(c) Change of Address, Etc. Any party hereto may change its address or facsimile number for notices and other communications hereunder by notice to the other parties hereto given in the manner set forth in this Section 13.1.

ARTICLE XIV

COUNTERPARTS; INTEGRATION; EFFECTIVENESS; ELECTRONIC EXECUTION; ELECTRONIC RECORDS

14.1 Counterparts; Effectiveness. This Agreement may be executed in counterparts (and by different parties hereto in different counterparts), each of which shall constitute an original, but all of which when taken together shall constitute a single contract. Except as provided in Article IV, this Agreement shall become effective when it shall have been executed by the Administrative Agent, and when the Administrative Agent shall have received

counterparts hereof which, when taken together, bear the signatures of each of the parties hereto, and thereafter shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns. Delivery of an executed counterpart of a signature page of this Agreement by telecopy or PDF shall be effective as delivery of a manually executed counterpart of this Agreement.

14.2 Electronic Execution of Assignments. The words "execution," "signed," "signature," and words of like import in any assignment and assumption agreement shall be deemed to include electronic signatures or the keeping of records in electronic form, each of which shall be of the same legal effect, validity or enforceability as a manually executed signature or the use of a paper-based recordkeeping system, as the case may be, to the extent and as provided for in any applicable law, including the Federal Electronic Signatures in Global and National Commerce Act, or any other state laws based on the Uniform Electronic Transactions Act.

14.3 Electronic Records. The Borrowers hereby acknowledge the receipt of a copy of this Agreement and all other Loan Documents. The Administrative Agent and each Lender may, on behalf of the Borrowers, create a microfilm, optical disk or other electronic image of this Agreement and any or all of the Loan Documents. The Administrative Agent and each Lender may store the electronic image of this Agreement and Loan Documents in its electronic form and then destroy the paper original as part of the Administrative Agent's and each Lender's normal business practices, with the electronic image deemed to be an original and of the same legal effect, validity and enforceability as the paper originals. The Administrative Agent and each Lender are authorized, when appropriate, to convert any note into a "transferable record" under the Uniform Electronic Transactions Act.

ARTICLE XV

CHOICE OF LAW; CONSENT TO JURISDICTION; WAIVER OF JURY TRIAL; STATUTORY STATEMENTS

15.1 **CHOICE OF LAW. THE LOAN DOCUMENTS (OTHER THAN THOSE CONTAINING A CONTRARY EXPRESS CHOICE OF LAW PROVISION) SHALL BE CONSTRUED IN ACCORDANCE WITH THE INTERNAL LAWS (WITHOUT REGARD TO THE CONFLICT OF LAWS PROVISIONS) OF THE STATE OF ARIZONA, BUT GIVING EFFECT TO FEDERAL LAWS APPLICABLE TO NATIONAL BANKS.**

15.2 **CONSENT TO JURISDICTION. EACH OF THE BORROWERS HEREBY IRREVOCABLY SUBMITS TO THE EXCLUSIVE JURISDICTION OF ANY UNITED STATES FEDERAL OR STATE COURT SITTING IN ARIZONA IN ANY ACTION OR PROCEEDING ARISING OUT OF OR RELATING TO ANY LOAN DOCUMENTS AND THE BORROWERS HEREBY IRREVOCABLY AGREE THAT ALL CLAIMS IN RESPECT OF SUCH ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT AND IRREVOCABLY WAIVES ANY OBJECTION IT MAY NOW OR HEREAFTER HAVE AS TO THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING BROUGHT IN SUCH A COURT OR THAT**

SUCH COURT IS AN INCONVENIENT FORUM. NOTHING HEREIN SHALL LIMIT THE RIGHT OF THE ADMINISTRATIVE AGENT, THE LETTER OF CREDIT ISSUER OR ANY LENDER TO BRING PROCEEDINGS AGAINST THE BORROWERS OR TO ENFORCE RIGHTS AND REMEDIES IN RESPECT OF COLLATERAL IN THE COURTS OF ANY OTHER JURISDICTION. ANY JUDICIAL PROCEEDING BY ANY OF THE BORROWERS AGAINST THE ADMINISTRATIVE AGENT OR ANY LENDER OR ANY AFFILIATE OF THE ADMINISTRATIVE AGENT OR ANY LENDER INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT SHALL BE BROUGHT ONLY IN A COURT IN ARIZONA.

15.3 **WAIVER OF JURY TRIAL. THE BORROWERS, THE ADMINISTRATIVE AGENT AND EACH LENDER HEREBY WAIVE TRIAL BY JURY IN ANY JUDICIAL PROCEEDING INVOLVING, DIRECTLY OR INDIRECTLY, ANY MATTER (WHETHER SOUNDING IN TORT, CONTRACT OR OTHERWISE) IN ANY WAY ARISING OUT OF, RELATED TO, OR CONNECTED WITH ANY LOAN DOCUMENT OR THE RELATIONSHIP ESTABLISHED THEREUNDER.**

[Signature Pages Follow]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

ADMINISTRATIVE AGENT AND LENDER:

UMB BANK, N.A., as a Lender and as Administrative Agent

By: _____
Name: Kyle McMillan
Title: Senior Vice President

Contact:
UMB Bank, N.A.
2777 E. Camelback Rd., Suite 350
Phoenix, AZ 85016
Attn: Kyle McMillian

QB\~~85665838.1~~85665838.5

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

SYNDICATION AGENT AND LENDER:

BMO HARRIS BANK N.A., as a Lender and as Syndication Agent

By: _____
Name: _____
Title: _____

Contact:
BMO HARRIS BANK, N.A.
_____
_____
Attn: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LENDER:

ARIZONA BANK & TRUST, as a Lender

By: _____
Name: _____
Title: _____

Contact:
Arizona Bank & Trust
_____
_____
Attn: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

LENDER:

FIFTH THIRD BANK, NATIONAL ASSOCIATION, as a Lender

By: _____
Name: _____
Title: _____

Contact:
Fifth Third Bank, National Association
_____
_____
Attn: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

	LENDER: **ACADEMY BANK**, as a Lender By: _____ Name: _____ Title: _____ Contact: Academy Bank _____ _____ Attn: _____

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

INITIAL BORROWERS:

AITKEN MANUFACTURING INC.

By:__
Michael R. Hill, Vice President, Chief Financial Officer, Secretary, and Treasurer

DBM GLOBAL INC.

By:__
Michael R. Hill, Vice President, Chief Financial Officer, Assistant Secretary, and Treasurer

DBM VIRCON SERVICES (USA) INC.

By:__
Michael R. Hill, Chairman, President, Secretary, and Treasurer

GRAYWOLF INDUSTRIAL, INC.

By:__
Michael R. Hill, Vice President

GRAYWOLF INTEGRATED CONSTRUCTION COMPANY

By:__
Michael R. Hill, Vice President

SCHUFF STEEL MANAGEMENT COMPANY – SOUTHWEST, INC.

By:__
Michael R. Hill, Vice President, Chief Financial Officer, Secretary, and Treasurer

SCHUFF STEEL COMPANY

By:__
Michael R. Hill, Vice President, Chief Financial Officer, Secretary, and Treasurer

MILCO NATIONAL CONSTRUCTORS, INC.

By:__
Michael R. Hill, Vice President

GRAYWOLF INTEGRATED CONSTRUCTION COMPANY – SOUTHEAST, INC.

By:__
Michael R. Hill, Vice President

BANKER STEEL BORROWERS:

Each of the undersigned Banker Steel Borrowers hereby confirms that, immediately upon the consummation of the Banker Steel Acquisition, it hereby joins this Agreement and the other Loan Documents as more fully set forth in Section 9.20 above and is a Borrower under this Agreement.

BANKER STEEL CO., L.L.C.

By: _____
Michael R. Hill, Vice President and Treasurer

BANKER STEEL HOLDCO LLC

By: _____
Michael R. Hill, Chief Financial Officer and Treasurer

BANKER STEEL SOUTH, LLC

By: _____
Michael R. Hill, Vice President and Treasurer

DERR AND ISBELL CONSTRUCTION, LLC

By: _____
Michael R. Hill, Vice President and Treasurer

INNOVATIVE ENGINEERING SOLUTIONS LLC

By: _____
Michael R. Hill, Vice President and Treasurer

LYNCHBURG FREIGHT & SPECIALTY LLC

By: _____
Michael R. Hill, Vice President and Treasurer

MEMCO LLC

By: _____
Michael R. Hill, Vice President and Treasurer

NYC CONSTRUCTORS, LLC

By: _____
Michael R. Hill, Vice President and Treasurer

NYC EQUIPMENT COMPANY, LLC

By: _____
Michael R. Hill, Vice President and Treasurer

NYCC CONSTRUCTION SERVICES, LLC

By: _____
Michael R. Hill, Vice President and Treasurer

US CONSTRUCTION SERVICES INC.

By: _____
Michael R. Hill, Vice President and Treasurer

US ERECTORS LLC

By: _____
Michael R. Hill, Vice President and Treasurer

INDEX OF EXHIBITS AND SCHEDULES

EXHIBIT A

REQUIRED OPINIONS

1. Borrowers'/Guarantors' Counsel Existence, Due Authorization, Execution and Delivery, Enforceability, and Creation and Perfection of Liens and Security Interests (including Texas, Arizona, and California Deeds of Trust and Mortgages) Opinion
2. South Carolina Mortgage Opinion
3. Utah Mortgage Opinion
4. Kansas Mortgage Opinion

EXHIBIT B – FORM OF COMPLIANCE CERTIFICATE

To: The Lenders party to the
Credit Agreement described below

This Compliance Certificate is furnished pursuant to that certain Credit Agreement dated as of May 27, 2021 (as amended, modified, renewed or extended from time to time, the "Agreement") among **DBM GLOBAL INC.,** a Delaware corporation, each of the other Borrowers party thereto (each a "Borrower" and collectively the "Borrowers"), the lenders party thereto, and **UMB BANK, N.A**., a national banking association, as Administrative Agent for the Lenders. Unless otherwise defined herein, capitalized terms used in this Compliance Certificate have the meanings ascribed thereto in the Agreement.

THE UNDERSIGNED HEREBY CERTIFIES THAT:

1. The undersigned is duly authorized as _____ of Borrower Agent to complete the certification contained herein with respect to each Borrower;

2. The undersigned has reviewed the terms of the Agreement and has made, or has caused to be made under the undersigned's supervision, a detailed review of the transactions and conditions of the Borrowers and their Subsidiaries during the accounting period covered by the attached financial statements;

3. The examinations described in paragraph 2 did not disclose, and the undersigned have no knowledge of, the existence of any condition or event which constitutes a Default or
Event of Default during or at the end of the accounting period covered by the attached financial statements or as of the date of this Certificate, except as set forth below; and

4. Schedule I attached hereto sets forth financial data and computations evidencing compliance by each Borrower with certain covenants of the Agreement, all of which data and computations are true, complete and correct.

Described below are the exceptions, if any, to paragraph 3 by listing, in detail, the nature of the condition or event, the period during which it has existed and the action which the
Borrowers have taken, are taking, or propose to take with respect to each such condition or event:

_____
_____
_____

The foregoing certifications, together with the computations set forth in Schedule I hereto and the financial statements delivered with this Certificate in support hereof, are made and delivered this [__] day of [_____], 20[__].

DBM GLOBAL INC., a Delaware corporation

By: _____
Name: _____
Title: Chief Financial Officer

Schedule I

SCHEDULE I TO COMPLIANCE CERTIFICATE

Compliance as of [_____], 20[__] with
Provisions of Section 6.1 and 6.19 of the Agreement
Schedule I

[insert relevant calculations]

EXHIBIT C – FORM OF ASSIGNMENT AND ASSUMPTION AGREEMENT

This Assignment and Assumption (the "Assignment and Assumption") is dated as of the Effective Date set forth below and is entered into by and between [*Insert name of Assignor*] (the "Assignor") and [*Insert name of Assignee*] (the "Assignee"). Capitalized terms used but not defined herein shall have the meanings given to them in the Credit Agreement identified below (as amended, the "Credit Agreement"), receipt of a copy of which is hereby acknowledged by the Assignee. The Terms and Conditions set forth in Annex 1 attached hereto are hereby agreed to and incorporated herein by reference and made a part of this Assignment and Assumption as if set forth herein in full.

For an agreed consideration, the Assignor hereby irrevocably sells and assigns to the Assignee, and the Assignee hereby irrevocably purchases and assumes from the Assignor, subject to and in accordance with the Terms and Conditions and the Credit Agreement, as of the Effective Date inserted by the Administrative Agent as contemplated below, the interest in and to all of the Assignor's rights and obligations in its capacity as a Lender under the Credit Agreement and any other documents or instruments delivered pursuant thereto that represents the amount and percentage interest identified below of all of the Assignor's outstanding rights and obligations under the respective facilities identified below (including without limitation any letters of credit, and guaranties included in such facilities and, to the extent permitted to be assigned under applicable law, all claims (including without limitation contract claims, tort claims, malpractice claims, statutory claims and all other claims at law or in equity), suits, causes of action and any other right of the Assignor against any Person whether known or unknown arising under or in connection with the Credit Agreement, any other documents or instruments delivered pursuant thereto or the loan transactions governed thereby) (the "Assigned Interest"). Such sale and assignment is without recourse to the Assignor and, except as expressly provided in this Assignment and Assumption, without representation or warranty by the Assignor.

1. Assignor: [_____]

2. Assignee: [_____]

3. Borrower(s): DBM Global Inc., and the other Borrowers party thereto

4. Administrative Agent: UMB Bank, N.A., as the Administrative Agent under the Credit Agreement

5. Credit Agreement: The Credit Agreement dated as of May 27, 2021 among DBM Global Inc., and the other Borrowers party thereto, the Lenders party thereto, UMB Bank, N.A., as Administrative Agent, and the other parties thereto.

6. Assigned Interest:

	Aggregate Amount of Commitment/Loans for all Lenders	Amount of Commitment/Loans Assignment	Percentage Assigned of Commitment/Loans
Facility Assigned			
Revolving Commitment	$[_____]	$[_____]	[_____]%
Term Loan	$[_____]	$[_____]	[_____]%

7. Date: [_____]

Effective Date: [_____], 20[__] [TO BE INSERTED BY ADMINISTRATIVE AGENT AND WHICH SHALL BE THE EFFECTIVE DATE OF RECORDATION OF TRANSFER BY THE ADMINISTRATIVE AGENT.]

The terms set forth in this Assignment and Assumption are hereby agreed to:

ASSIGNOR
[NAME OF ASSIGNOR]

By:_____
Title: _____

ASSIGNEE
[NAME OF ASSIGNEE]

By:_____
Title: _____

Consented to and Accepted:

UMB BANK, N.A., as
Administrative Agent

By: _____
Title: _____

DBM GLOBAL INC.,
a Delaware corporation, as
Borrower Agent

Exhibit C

By: _____

Title: _____

ANNEX 1
TERMS AND CONDITIONS FOR
ASSIGNMENT AND ASSUMPTION

1. Representations and Warranties.

1.1 Assignor. The Assignor represents and warrants to the Assignee, Borrowers, and Lenders that (i) it is the legal and beneficial owner of the Assigned Interest, (ii) the Assigned Interest is free and clear of any lien, encumbrance, or other adverse claim and (iii) it has full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby. Neither the Assignor nor its officers, directors, employees, agents, or attorneys shall be responsible to the Assignee for (i) any statements, warranties, or representations made in or in connection with the Credit Agreement or any other Loan Document, (ii) the execution, legality, validity, enforceability, genuineness, sufficiency, perfection, priority, collectability, or value of the Loan Documents or any collateral thereunder, (iii) the financial condition of the Borrowers, any of their Subsidiaries or Affiliates or any other Person obligated in respect of any Loan Document, (iv) the performance or observance by the Borrowers, any of their Subsidiaries or Affiliates or any other Person of any of their respective obligations under any Loan Documents, (v) inspecting any of the Property, books or records of the Borrowers, or any Guarantor, or (vi) any mistake, error of judgment, or action taken or omitted to be taken in connection with the Loans or the Loan Documents.

1.2 Assignee. The Assignee (a) represents and warrants to the Assignor, Borrowers, and Lenders that (i) it has the full power and authority, and has taken all action necessary, to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby and to become a Lender under the Credit Agreement, (ii) from and after the Effective Date, it shall be bound by the provisions of the Credit Agreement as a Lender thereunder and, to the extent of the Assigned Interest, shall have the obligations of a Lender thereunder, (iii) agrees that its payment instructions and notice instructions are as set forth in Schedule 1 to this Assignment and Assumption, (iv) confirms that none of the funds, monies, assets or other consideration being used to make the purchase and assumption hereunder are "plan assets" as defined under ERISA and that its rights, benefits, and interests in and under the Loan Documents will not be "plan assets" under ERISA, (v) agrees to indemnify and hold the Assignor harmless against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees) and liabilities incurred by Assignor in connection with or arising in any manner from the Assignee's non-performance of the obligations assumed under this Assignment and Assumption, (vi) it has received a copy of the Credit Agreement, together with copies of financial statements and such other documents and information as it has deemed appropriate to make its own credit analysis and decision to enter into this Assignment and Assumption and to purchase the Assigned Interest on the basis of which it has made such analysis and decision independently and without reliance on the Administrative Agent or any other Lender, and (vii) attached as Schedule 1 to this Assignment and Assumption is any documentation required to be delivered by the Assignee with respect to its tax status pursuant to the terms of the Credit Agreement, duly completed and executed by Assignee and (b) agrees that

(i) it will, independently and without reliance on Administrative Agent, the Assignor or any other Lender, and based on such documents and information as it shall deem appropriate at any time, continue to make its own credit decisions in taking or not taking action under the Loan Documents, and (ii) it will perform in accordance with their terms all of the obligations which by the terms of the Loan Documents are required to be performed by it as a Lender.

2. Payments. The Assignee shall pay the Assignor, on the Effective Date, the amount agreed to by the Assignor and the Assignee. From and after the Effective Date, the Administrative Agent shall make all payments in respect of the Assigned Interest (including payments of principal, interest, Reimbursement Obligations, fees and other amounts) to the Assignor for amounts which have accrued to but excluding the Effective Date and to the Assignee for amounts which have accrued from and after the Effective Date.

3. General Provisions. This Assignment and Assumption shall be binding upon, and inure to the benefit of, the parties hereto and their respective successors and assigns. This Assignment and Assumption may be executed in any number of counterparts, which together shall constitute one instrument. Delivery of an executed counterpart of a signature page of this Assignment and Assumption by telecopy, PDF or electronic communication as contemplated by the Credit Agreement shall be effective as delivery of a manually executed counterpart of this Assignment and Assumption. This Assignment and Assumption shall be governed by, and construed in accordance with, the law of the State of Arizona.

EXHIBIT D
FORM OF BORROWING NOTICE

TO: UMB Bank, N.A., as administrative agent (the "Administrative Agent") under that certain Credit Agreement (as amended, restated, supplemented, or otherwise modified from time to time, the "Credit Agreement"), dated as of May 27, 2021 among DBM Global Inc., a Delaware corporation, and the other Borrowers party thereto (each a "Borrower" and collectively the "Borrowers"), the financial institutions party thereto, as lenders (the "Lenders"), and the Administrative Agent.

Capitalized terms used herein shall have the meanings ascribed to such terms in the Credit Agreement.

DBM Global Inc., a Delaware corporation, as "Borrower Agent" under the Credit Agreement, hereby gives to Administrative Agent a request for borrowing pursuant to Section 2.4 of the Credit Agreement, and Borrower hereby requests to borrow on [_____], 20[__] (the "Borrowing Date"):

(a) from the Lenders, on a pro rata basis, an aggregate principal Dollar Amount of $[_____] in Revolving Loans.

The undersigned hereby certifies to the Administrative Agent and the Lenders that (i) the representations and warranties contained in Article V of the Credit Agreement are (a) with respect to any representations or warranties that contain a materiality qualifier, true and correct in all respects as of the date hereof, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all respects on and as of such earlier date and (b) with respect to any representations or warranties that do not contain a materiality qualifier, true and correct in all material respects as of the date hereof, except to the extent any such representation or warranty is stated to relate solely to an earlier date, in which case such representation or warranty shall have been true and correct in all material respects on and as of such earlier date; (ii) at the time of and immediately after giving effect to such Advance, no Default or Event of Default shall have occurred and be continuing; and (iii) all other relevant conditions set forth in Section 4.2 of the Credit Agreement have been satisfied.

IN WITNESS WHEREOF, the undersigned has caused this Borrowing Notice to be executed by its authorized officer as of the date set forth below.

Dated: _____, 20__

DBM GLOBAL INC., a Delaware corporation, as Borrower Agent

By: _____
Name: _____

Annex 1

QB\~~85665838.1~~85665838.5

Title:_____

EXHIBIT E-1

FORM OF REVOLVING LOAN NOTE

$_____ May 27, 2021

The undersigned (each a "Borrower" and collectively the "Borrowers") promise to pay to the order of _____ (the "Lender"), the aggregate unpaid principal amount of up to _____ and 00/100 Dollars ($_____) made available by the Lender to the Borrowers pursuant to Section 2.1 of the Agreement (as hereinafter defined), in immediately available funds at the applicable office of **UMB BANK, N.A**., as Administrative Agent, together with interest on the unpaid principal amount hereof at the rates and on the dates set forth in the Agreement. The Borrowers shall pay the principal of and accrued and unpaid interest on this Revolving Note in full on the Revolving Loan Maturity Date.

The Administrative Agent shall, and is authorized to, record in accordance with its usual practice, the date and amount of each Revolving Loan and the date and amount of each principal payment hereunder.

This Revolving Note is one of the Notes issued pursuant to, and is entitled to the benefits of, the Credit Agreement dated as of May 27, 2021 (which, as it may be amended or modified and in effect from time to time, is herein called the "Agreement"), among the Borrowers, the lenders party thereto, including the Lender, and UMB Bank, N.A., as Administrative Agent, to which Agreement reference is hereby made for a statement of the terms and conditions governing this Revolving Note, including the terms and conditions under which this Revolving Note may be prepaid or its Revolving Loan Maturity Date accelerated. This Revolving Note is secured pursuant to the Collateral Documents, all as more specifically described in the Agreement, and reference is made thereto for a statement of the terms and provisions thereof. Capitalized terms used herein and not otherwise defined herein are used with the meanings attributed to them in the Agreement.

In the event of default hereunder, the undersigned agree to pay all costs and expenses of collection, including reasonable attorneys' fees. The undersigned waive demand, presentment, notice of nonpayment, protest, notice of protest and notice of dishonor.

THE VALIDITY, CONSTRUCTION AND ENFORCEABILITY OF THIS NOTE SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF ARIZONA WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF, BUT GIVING EFFECT TO FEDERAL LAWS OF THE UNITED STATES APPLICABLE TO NATIONAL BANKS.

[Signatures on Following Pages]

Each Borrower has executed this Revolving Loan Note as of the date set forth above.

[BORROWER NAME]

By: _____
Name: _____
Title:_____

[BORROWER NAME]

By: _____
Name: _____
Title:_____

[BORROWER NAME]

By: _____
Name: _____
Title:_____

[BORROWER NAME]

By: _____
Name: _____
Title:_____

EXHIBIT E-2

FORM OF TERM NOTE

$_____ May 27, 2021

The undersigned (each a "Borrower" and collectively the "Borrowers") promise to pay to the order of _____ (the "Lender"), as defined in the Agreement (as hereinafter defined), the principal amount of _____ and 00/100 Dollars ($_____.00) advanced by the Lender to the Borrowers pursuant to Section 2.2 of the Agreement (as hereinafter defined), in immediately available funds at the applicable office of **UMB BANK, N.A.**, as Administrative Agent, together with interest on the unpaid principal amount hereof at the rates and on the dates set forth in the Agreement. The Borrowers shall pay the principal of and accrued and unpaid interest on this Term Note in full on the Term Loan Maturity Date.

The Administrative Agent shall, and is authorized to, record in accordance with its usual practice, the date and amount of each Term Loan and the date and amount of each principal payment hereunder.

This Term Note is one of the Notes issued pursuant to, and is entitled to the benefits of, the Credit Agreement dated as of May 27, 2021 (which, as it may be amended or modified and in effect from time to time, is herein called the "Agreement"), among the Borrowers, the lenders party thereto, including the Lender, and UMB Bank, N.A., as Administrative Agent, to which Agreement reference is hereby made for a statement of the terms and conditions governing this Term Note, including the terms and conditions under which this Term Note may be prepaid or its Term Loan Maturity Date accelerated. This Term Note is secured pursuant to the Collateral Documents, all as more specifically described in the Agreement, and reference is made thereto for a statement of the terms and provisions thereof. Capitalized terms used herein and not otherwise defined herein are used with the meanings attributed to them in the Agreement.

In the event of default hereunder, the undersigned agree to pay all costs and expenses of collection, including reasonable attorneys' fees. The undersigned waive demand, presentment, notice of nonpayment, protest, notice of protest and notice of dishonor.

THE VALIDITY, CONSTRUCTION AND ENFORCEABILITY OF THIS NOTE SHALL BE GOVERNED BY THE INTERNAL LAWS OF THE STATE OF ARIZONA WITHOUT GIVING EFFECT TO THE CONFLICT OF LAWS PRINCIPLES THEREOF, BUT GIVING EFFECT TO FEDERAL LAWS OF THE UNITED STATES APPLICABLE TO NATIONAL BANKS.

[Signatures on Following Pages]

Each Borrower has executed this Term Note as of the date set forth above.

[BORROWER NAME]

By: _____
Name: _____
Title:_____

[BORROWER NAME]

By: _____
Name: _____
Title:_____

[BORROWER NAME]

By: _____
Name: _____
Title:_____

[BORROWER NAME]

By: _____
Name: _____
Title:_____

EXHIBIT H
LIST OF CLOSING DOCUMENTS

A. LOAN DOCUMENTS

1. Credit Agreement dated as of May 27, 2021, among DBM Global Inc. and the other Borrowers listed on Schedule 1.1 thereof (each a "Borrower" and collectively the "Borrowers"), and Lenders party thereto and UMB Bank, N.A., as administrative agent (in such capacity, the "Administrative Agent") evidencing (a) a revolving credit facility to Borrowers from Lenders in an initial aggregate principal amount of up to $110,000,000.00, and (b) a term loan to Borrowers from Lenders in an initial principal amount of $110,000,000.00

EXHIBITS

Exhibit A – Required Opinions
Exhibit B – Form of Compliance Certificate
Exhibit C – Form of Assignment and Assumption Agreement
Exhibit D – Form of Borrowing Notice
Exhibit E-1 – Form of Revolving Loan Note
Exhibit E-2 – Form of Term Note
Exhibit H – Closing Documents

SCHEDULES

Schedule 1.1 – List of Borrowers
Schedule 1.2 – List of Guarantors
Schedule 2 – Lenders, Commitments, and Pro Rata Shares
Schedule 4.4 – Collateral Access Agreement Locations
Schedule 5.8 – Subsidiaries
Schedule 5.23 – Mortgaged Property
Schedule 5.23A – Real Property
Schedule 6.10 – Debt
Schedule 6.14 – Existing Liens
Schedule 6.23 – Investments

2. Revolving Loan Note executed by Borrowers in favor of Administrative Agent for the benefit of Lenders

3. Term Note executed by Borrowers in favor of Administrative Agent for the benefit of Lenders

4. Pledge and Security Agreement executed by Borrowers and Guarantors (listed on Schedule 1.2 of the Agreement) in favor of the Administrative Agent

5. Guaranty executed by Guarantors in favor of Administrative Agent

6. Deed of Trust securing real property located at 420 S. 19th Avenue, Phoenix, AZ, executed by the relevant Borrower in favor of Administrative Agent

7. Deed of Trust securing real property located at 1705 W. Battaglia Drive, Eloy, AZ, executed by the relevant Borrower in favor of Administrative Agent

8. Deed of Trust securing real property located at 5055 N. Ken Morey Drive, Bellemont, AZ, executed by the relevant Borrower in favor of Administrative Agent

9. Deed of Trust securing real property located at 1825-1841 W. Buchanan Street, Phoenix, AZ, executed by the relevant Borrower in favor of Administrative Agent

10. Mortgage securing real property located at 1345 Hall Spencer Road, Hill, SC, executed by the relevant Borrower in favor of Administrative Agent

11. Deed of Trust securing real property located at 325 S. Geneva Road, Lindon, UT, executed by the relevant Borrower in favor of Administrative Agent

12. Mortgage securing real property located at 2001 N. Davis Avenue, Ottawa, KS, executed by the relevant Borrower in favor of Administrative Agent

13. Deed of Trust securing real property located at 2324 Navy Drive, Stockton, CA, executed by the relevant Borrower in favor of Administrative Agent

14. Deed of Trust securing real property located at 4918, 4920 & 5000 Airline Drive, Houston, TX, executed by the relevant Borrower in favor of Administrative Agent

15. Deed of Trust securing real property located at 14500 Smith Road, Humble, TX, executed by the relevant Borrower in favor of Administrative Agent

16. Environmental Indemnity Agreement executed by Borrowers and Guarantors, in favor of Administrative Agent

17. Deposit Account Control Agreements among the relevant Borrowers, the Administrative Agent, and the relevant account bank or securities intermediary, as applicable

18. Collateral Assignment of Acquisition Documents executed by the relevant Borrowers, in favor of Administrative Agent

19. Intercreditor and Subordination Agreement executed by relevant Borrowers, Administrative Agent, and Atlas Holdings

20. Intercreditor and Subordination Agreement executed by relevant Borrowers, Administrative Agent, and Don Banker

B. UCC AND OTHER COLLATERAL-RELATED DELIVERIES

21. UCC, tax lien, bankruptcy, judgment, and name variation search reports naming each Borrower from the appropriate offices in relevant jurisdictions

22. UCC, tax, lien, bankruptcy, judgment, and name variation search reports naming each Guarantor from the appropriate offices in relevant jurisdictions

23. UCC-1 financing statements naming each relevant Borrower and Guarantor as debtor and the Administrative Agent as secured party filed with the appropriate offices in the applicable jurisdictions
24. Stock Certificates for first-tier foreign subsidiaries of Borrowers

25. Stock Powers for Stock Certificates of first-tier foreign subsidiaries of Borrowers
26. Original Notes held by any Borrower or Guarantor

C. CORPORATE DOCUMENTS

27. Certificate of the Secretary of each Borrower certifying (i) that there have been no changes in the charter document of such Borrower, as attached thereto and as certified as of a recent date by the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, since the date of the certification thereof by such governmental entity, (ii) the Operating Agreement or other organizational document, as attached thereto, of such Borrower as in effect on the date of such certification, (iii) resolutions of the Board of Directors or other governing body of such Borrower authorizing the execution, delivery, and performance of each Loan Document to which it is a party, (iv) the Good Standing Certificate (or analogous documentation if applicable) for such Borrower from the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, to the extent generally available in such jurisdiction, and (v) the names and true signatures of the incumbent officers of each Borrower authorized to sign the Loan Documents to which it is a party, and (in the case of each Borrower) authorized to request an Credit Extension under the Credit Agreement.

28. Certificate of the Secretary of each Guarantor certifying (i) that there have been no changes in the charter document of such Guarantor, as attached thereto and as certified as of a recent date by the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, since the date of the certification thereof by such governmental entity, (ii) the Operating Agreement or other organizational document, as attached thereto, of such Guarantor as in effect on the date of such certification, (iii) resolutions of the Board of Directors or other governing body of such Guarantor authorizing the execution, delivery, and performance of each Loan Document to which it is a party, (iv) the Good Standing Certificate (or analogous documentation if applicable) for such Guarantor from the Secretary of State (or analogous governmental entity) of the jurisdiction of its organization, to the extent generally available in such jurisdiction, and (v) the names and true signatures of the incumbent officers of each Guarantor authorized to sign the Loan Documents to which it is a party.

D. DEBT REPAYMENT DOCUMENTS; UCC TERMINATION FILINGS

29. Payoff Letter executed and delivered in the name of Wells Fargo Bank, N.A.

30. Payoff Letter executed and delivered in the name of TCW Asset Management Company LLC.

31. UCC Termination Statement(s) by Wells Fargo Bank, N.A.
32. UCC Termination Statement(s) by TCW Asset Management Company LLC.

E. OPINIONS

33. Borrowers'/Guarantors' Counsel Existence, Due Authorization, Execution and Delivery, Enforceability, and Creation and Perfection of Liens and Security Interests (including Texas, Arizona, and California Deeds of Trust and Mortgages) Opinion

34. South Carolina Mortgage Opinion

35. Utah Mortgage Opinion

36. Kansas Mortgage Opinion

F. CLOSING CERTIFICATES AND MISCELLANEOUS

37. Financial Statements of each Borrower

38. Beneficial Ownership Certificates by each Borrower and each Guarantor

G. POST-CLOSING

39. Post-filing UCC search reports reflecting the UCC-1 financing statements referred to in item 25 above to be of record

SCHEDULE 1.1

BORROWERS

INITIAL BORROWERS	
ENTITY	JURISDICTION INCORPORATED/ORGANIZED
DBM Global Inc.	Delaware
GrayWolf Industrial, Inc.	Delaware
Schuff Steel Management Company – Southwest, Inc.	Delaware
Schuff Steel Company	Delaware
Aitken Manufacturing Inc.	Delaware
DBM Vircon Services (USA) Inc.	Arizona
GrayWolf Integrated Construction Company	Delaware
Milco National Constructors, Inc.	Delaware
GrayWolf Integrated Construction Company-Southeast, Inc.	Georgia
BANKER STEEL BORROWERS	
ENTITY	JURISDICTION INCORPORATED/ORGANIZED
Banker Steel Holdco LLC	Delaware
Banker Steel Co., L.L.C.	Delaware
Banker Steel South, LLC	Virginia
US Erectors LLC	Delaware
NYC Constructors, LLC	Delaware
Derr and Isbell Construction, LLC	Texas
Memco LLC	Delaware
Lynchburg Freight & Specialty LLC	Delaware
NYC Equipment Company, LLC	Virginia
Innovative Engineering Solutions LLC	Delaware
US Construction Services Inc.	Delaware
NYCC Construction Services, LLC	Delaware

SCHEDULE 1.2

GUARANTORS

ENTITY	JURISDICTION INCORPORATED/ORGANIZED
DBM Global – North America Inc.	Delaware
Addison Structural Services, Inc.	Florida
Quincy Joist Company	Delaware
Schuff Steel – Atlantic, LLC	Florida
On-Time Steel Management Holding, Inc.	Delaware
Schuff Steel Management Company – Southeast L.L.C.	Delaware
Schuff Steel Management Company – Colorado L.L.C.	Delaware
PDC Services (USA) Inc.	Delaware
Innovative Structural Systems Inc.	Delaware
DBM Global Holdings Inc.	Delaware
Schuff Premier Services LLC	Delaware
CB-Horn Holdings, Inc.	Delaware
Titan Fabricators, Inc.	Kentucky
Midwest Environmental, Inc.	Kentucky
M. Industrial Mechanical, Inc.	Delaware

SCHEDULE 2

LENDERS, COMMITMENTS AND PRO RATA SHARES

Lender	Revolving Commitment	Term Loan Commitment (as of May 27, 2021)	Pro Rata Share
UMB Bank, N.A.	$49,090,909.10	$40,000,000.00	36.363637%
BMO Harris Bank N.A.	$36,818,181.82	$30,000,000.00	27.272727%
Arizona Bank & Trust	$24,545,454.54	$20,000,000.00	18.181818%
Fifth Third Bank, National Association	$15,340,909.09	$12,500,000.00	11.363636%
Associated Bank	$9,204,545.45	$7,500,000.00	6.818182%
TOTALS	$135,000,000.00	$110,000,000.00	100%

SCHEDULE 4.4
COLLATERAL ACCESS AGREEMENT LOCATIONS

BORROWERS

Company	Property location	Landlord
DBM Global Inc.	3020 E Camelback Rd, Ste 100 Phoenix, AZ 85016	WAM 3020 Limxfited Partnership
Schuff Steel Company	3003 N Central Ave, Ste 700 Phoenix, AZ 85012	
	2905 Premiere Pkwy., Ste. 210 Duluth, GA 30097	A.G. Spanos Professional Office Center, LLC
	915 118th Ave. SE, Ste. 280 Bellevue, WA 98005	Sugarloaf Commerce Center LLC
	1971 W. 700 N., Ste. 101 Lindon, UT 84042	Spire Gateway LP
	1401 Dove St., Ste. 530 Newport Beach, CA 92660	Lindon Tech 3, LLC
	6701 W. 64th St., Ste. 200 Overland Park, KS 66202	Palm Springs Village-309, LLC
	7901 Stoneridge Dr., Ste. 211 Pleasanton, CA 94588	Cloverleaf 5 Building, LLC ECI Four 7901 Stoneridge, LLC
	6500 SW Macadam Ave., Ste. 350 Portland, OR 97239	Weston Investment Co. LLC d/b/a American Property Management
	9174 Sky Park Court, Ste. 200 San Diego, CA 92123	Government Properties Income Trust, LLC
	10100 Trinity Parkway, Ste. 400 Stockton, CA 95219	A.G. Spanos Professional Office Center, LLC
Aitken Manufacturing Inc.	5008 Airline Dr. Houston, TX 77022	G.A. Repal
DBM Global Inc. Schedule 4.4 Services (USA) Inc.	2151 E. Broadway Rd. #220, Tempe, AZ 85282	Broadway 101 LLC
	1230 W. Washington St., Suite 201 Tempe, AZ 85281	Papago Buttes Corporate, LLC

Company	Property location	Landlord
GrayWolf Integrated Construction Company-Southeast, Inc. (f/k/a Inco Services, Inc.)	3550 Francis Circle Alpharetta, GA 30004 4618 Highway #370 Cedar Springs, GA 39832 30333 County Road 49 Loxley, AL 36551 37 Artley Rd. Savannah, GA 31408	Green River Investments, LLC Inman Industrial Electric, Inc. Green River Investments, LLC Green River Investments, LLC
Milco National Constructors, Inc.	3930 Cherry Avenue Long Beach, CA 90807	3930 Cherry LLC
GrayWolf Integrated Construction Company (f/k/a Titan Contracting & Leasing Co.)	11800 Fairmont Pkwy. LaPorte, TX 77571	Vigavi Realty, LLC
Banker Steel Co., LLC	2940 Fulks Street Lynchburg, VA 24501 1619 Wythe Road Lynchburg, VA 24501 351 Rangoon Street Lynchburg, VA 24502 6635 Edgewater Drive Orlando, FL 32810 7351 Overland Road (plant) Orlando, FL 32810 7351 Overland Road (yard) Orlando, FL 32810 1291 S. Orange Blossom Trail Apopka, FL 32703 8708 Wards Road Rustburg, VA 24588 1640 New Market Ave., Building 2 Plainfield, NJ 07080 1641 New Market Ave., Building 7 Plainfield, NJ 07080 1641 New Market Ave., Building 9 Plainfield, NJ 07080	2940 Fulks Street, LLC Store Capital Acquisitions, LLC Store Capital Acquisitions, LLC Store Capital Acquisitions, LLC Lockhart Center LLC Lockhart Center LLC H2O Properties LLC WK Land and Timber, LLC Harris Realty Company LLC Harris Realty Company LLC Harris Realty Company LLC

Company	Property location	Landlord
Derr and Isbell Construction, LLC	10904 Crabapple Road Roswell, GA 30075 3900 Tarrant Main Street Euless, TX 76040 295 E Felton Road Cartersville, GA 30121	 AT-PAC Properties US LLC Derr Construction Company; Derr Family Limited Partnership; Tank Builders, Inc. Cartersville Warehousing, LLC
Innovative Engineering Solutions LLC	107 Oak Park Drive, Suite C Irmo, SC 29063	TAD Ventures, LLC
Lynchburg Freight & Specialty LLC	2940 Fulks Street Lynchburg, VA 24501	2940 Fulks Street, LLC
NYC Constructors, LLC	110 East 42nd St., Suite 610 New York, NY 10017 400 Madison Avenue New York, NY 10017	Gotham 42nd St. LLC DS400 Owner LLC

GUARANTORS

None.

SCHEDULE 5.8

SUBSIDIARIES

INITIAL BORROWERS (OTHER THAN HOLDINGS)

Subsidiary	Jurisdiction	Equity Owners
Schuff Steel Company	Delaware	DBM Global – North America Inc. owns 100% (100 shares) of the capital stock of Schuff Steel Company
Aitken Manufacturing Inc.	Delaware	DBM Global – North America Inc. owns 100% (800 shares) of the common stock of Aitken Manufacturing Inc.
Schuff Steel Management Company – Southwest, Inc.	Delaware	On-Time Steel Management Holding, Inc. owns 100% (100 shares) of the capital stock of Schuff Steel Management Company - Southwest, Inc.
DBM Vircon Services (USA) Inc.	Arizona	DBM Global – North America Inc. owns 100% (100 shares) of the common stock of DBM Vircon Services (USA), Inc.
Graywolf Industrial, Inc.	Delaware	CB-Horn Holdings, Inc. owns 94% (110 shares) of the capital stock of GrayWolf Industrial, Inc. Schuff Steel Company owns 5% (6 shares) of the capital stock of GrayWolf Industrial, Inc. Schuff Steel Management Company – Southwest, Inc. owns 1% (1 share) of the capital stock of GrayWolf Industrial, Inc.
GrayWolf Integrated Construction Company-Southeast, Inc.	Georgia	Graywolf Industrial, Inc. owns 100% (2,300 shares) of the capital stock of GrayWolf Integrated Construction Company-Southeast, Inc. (f/k/a Inco Services, Inc.)

Subsidiary	Jurisdiction	Equity Owners
Milco National Constructors, Inc.	Delaware	Graywolf Industrial, Inc. owns 100% (100 shares) of the capital stock of Milco National Constructors, Inc.
GrayWolf Integrated Construction Company	Delaware	Graywolf Industrial, Inc. owns 69% (523 shares) of the capital stock of GrayWolf Integrated Construction Company (f/k/a Titan Contracting & Leasing Company, Inc.) Schuff Steel Company owns Owns 29% (219 shares) of the capital stock of GrayWolf Integrated Construction Company (f/k/a Titan Contracting & Leasing Company, Inc.) Schuff Steel Management Company – Southwest, Inc. owns 2% (19 shares) of the capital stock of GrayWolf Integrated Construction Company (f/k/a Titan Contracting & Leasing Company, Inc.)

BANKER STEEL BORROWERS

Subsidiary	Jurisdiction	Equity Owners
Banker Steel Holdco LLC	Delaware	DBM Global Inc. owns 100% of Banker Steel Holdco LLC
Banker Steel Co., L.L.C.	Delaware	Banker Steel Holdco LLC owns 100% of Banker Steel Co., L.L.C.
Banker Steel South, LLC	Virginia	Banker Steel Co., L.L.C. owns 100% of Banker Steel South, LLC
US Erectors LLC	Delaware	Banker Steel Co., L.L.C. owns 100% of US Erectors LLC
Lynchburg Freight & Specialty LLC (f/k/a Lynchburg Steel Services LLC)	Delaware	Banker Steel Co., L.L.C. owns 100% of Lynchburg Freight & Specialty LLC (f/k/a Lynchburg Steel Services LLC)
Derr & Isbell Construction, LLC	Delaware	US Erectors LLC owns 100% of Derr & Isbell Construction, LLC
Innovative Engineering Solutions LLC	Delaware	US Erectors LLC owns 100% of Innovative Engineering Solutions LLC

Subsidiary	Jurisdiction	Equity Owners
NYC Constructors, LLC	Delaware	US Erectors LLC owns 100% of NYC Constructors, LLC
NYC Equipment, LLC	Virginia	NYC Constructors, LLC owns 100% of NYC Equipment, LLC
NYCC Construction Services, LLC	Delaware	NYC Constructors, LLC owns 100% of NYCC Construction Services, LLC
Memco LLC	Delaware	US Erectors LLC owns 100% of Memco LLC
U.S. Construction Services, Inc.	Delaware	NYC Constructors, LLC owns 100% of U.S. Construction Services, Inc.
Innovative Detailing Services, Ltd.	Ontario	U.S. Construction Services, Inc. owns 100% of Innovative Detailing Services, Ltd.
NYC Construction Services, Ltd.	Ontario	U.S. Construction Services, Inc. owns 100% of NYC Construction Services, Ltd.

GUARANTORS

Subsidiary	Jurisdiction	Equity Owners
DBM Global - North America Inc.	Delaware	DBM Global Inc. owns 100% (100 shares) of the common stock of DBM Global – North America, Inc.
Quincy Joist Company	Delaware	Addison Structural Services, Inc. owns 100% (1,000 shares) of the capital stock of Quincy Joist Company
On-Time Steel Management Holding, Inc.	Delaware	DBM Global – North America Inc. 100% (100 shares) of the capital stock of On-Time Steel Management Holding, Inc.
Addison Structural Services, Inc.	Florida	DBM Global – North America Inc. owns 100% (1 share) of the capital stock of Addison Structural Services, Inc.
DBM Global Holdings Inc.	Delaware	DBM Global Inc. owns 100% (300 shares) of the common stock of DBM Global Holdings Inc.
PDC Services (USA) Inc.	Delaware	DBM Global – North America Inc. owns 100% (100 shares) of the capital stock of PDC Services (USA) Inc.
Schuff Premier Services LLC	Delaware	DBM Global Inc. owns 100% membership interests in Schuff Premier Services LLC

Subsidiary	Jurisdiction	Equity Owners
Schuff Steel – Atlantic LLC	Florida	Schuff Steel Company owns 100% membership interests in Schuff Steel – Atlantic, LLC
Schuff Steel Management Company – Colorado LLC	Delaware	On-Time Steel Management Holding, Inc. owns 100% membership interests in Schuff Steel Management Company - Colorado, LLC
Schuff Steel Management Company – Southeast LLC	Delaware	On-Time Steel Management Holding, Inc. owns 100% membership interests in Schuff Steel Management Company - Southeast, LLC
Innovative Structural Systems Inc.	Delaware	DBM Global – North America Inc. owns 100% (1,000 shares) of the capital stock of Innovative Structural Systems Inc.
CB-Horn Holdings, Inc.	Delaware	DBM Global Inc. owns 100% (1,000 shares) of the capital stock of CB-Horn Holdings, Inc.
Midwest Environmental, Inc.	Kentucky	Graywolf Industrial, Inc. owns 100% (1,000 shares) of the capital stock of Midwest Environmental, Inc.
M. Industrial Mechanical, Inc.	Delaware	Graywolf Industrial, Inc. owns 100% (100 shares) of the capital stock of M. Industrial Mechanical, Inc.
Titan Fabricators, Inc.	Kentucky	GrayWolf Integrated Construction Company owns 100% (1,000 shares) of the capital stock of Titan Fabricators, Inc.

FOREIGN SUBSIDIARIES

Subsidiary	Jurisdiction	Equity Owners
Schuff Steel Company – Panama, S. de R.L.	Panama	DBM Global – North America Inc. owns 99% (99) of the Quotas of Schuff Steel Company – Panama, S. de R.L. Schuff Steel Company owns 1% (1) of the Quotas of Schuff Steel Company – Panama, S. de R.L.

Subsidiary	Jurisdiction	Equity Owners
DBM Vircon Services (Canada) Ltd.	British Columbia, Canada	DBM Global Holdings Inc. owns 100% (101 shares) of the common stock of DBM Vircon Services (Canada) Ltd (f/k/a DBM Vircon Services LTD)
DBMG International Pte Ltd	Singapore	DBM Global Holdings Inc. owns 100% (19,025,620 shares) of the ordinary stock of DBMG International PTE LTD
DBMG Singapore Pte Ltd	Singapore	DBMG International Pte Ltd owns 100% of DBMG Singapore Pte Ltd
DBM Vircon (Australia) Pty Ltd	Victoria, Australia	DBMG Singapore Pte Ltd owns 100% of DBM Vircon (Australia) Pty Ltd
PDC Operations (Australia) Pty Ltd	Victoria, Australia	DBM Vircon (Australia) Pty Ltd owns 100% of PDC Operations (Australia) Pty Ltd
DBM Vircon Services (Philippines) Inc.	Philippines	DBMG Singapore Pte Ltd owns 100% of DBM Vircon Services (Philippines) Inc.
DBM Vircon Services (Australia) Pty Ltd.	Victoria, Australia	DBM Vircon (Australia) Pty Ltd owns 100% of DBM Vircon Services (Australia) Pty Ltd.
BDS Steel Detailers (Australia) Pty Ltd	Victoria, Australia	DBM Vircon Services (Australia) Pty Ltd. owns 100% of BDS Steel Detailers (Australia) Pty Ltd
DBM Vircon Services (UK) Ltd	England & Wales, United Kingdom	DBM Global Holdings Inc. owns 100% of DBM Vircon Services (UK) Ltd
DBM Vircon Services (NZ) Limited	New Zealand	DBM Vircon Services (Australia) Pty Ltd. owns 100% of DBM Vircon Services (NZ) Limited

Subsidiary	Jurisdiction	Equity Owners
DBM Vircon Services (Thailand) Company Ltd	Bangkok, Thailand	DBMG Singapore Pte Ltd owns 87% (39.994 shares) of DBM Vircon Services (Thailand) Company Ltd Vinod Muthanna owns 6.5% (3 shares) of DBM Vircon Services (Thailand) Company Ltd Vaughn McClear owns 6.5% (3 shares) of DBM Vircon Services (Thailand) Company Ltd
DBM Vircon Services (India) Private Limited	Chennai, Tamil Nadu, India	DBM Global Holdings Inc. owns 99.99% (9,999 equity shares) of DBM Vircon Services (India) Private Limited DBMG International Pte Ltd owns .01% (1 share) as nominee for DBMG Singapore Pte Ltd

SCHEDULE 5.23

MORTGAGED PROPERTY

1. 420 S. 19th Avenue, Phoenix, AZ
2. 1705 W. Battaglia Drive, Eloy, AZ
3. 5055 N. Ken Morey Drive, Bellemont, AZ
4. 1345 Hall Spencer Road, Hill, SC
5. 325 S. Geneva Road, Lindon, UT
6. 2001 N. Davis Avenue, Ottawa, KS
7. 2324 Navy Drive, Stockton, CA
8. 4918, 4920 & 5000 Airline Drive, Houston, TX
9. 14500 Smith Road, Humble, TX

SCHEDULE 5.23A

REAL PROPERTY

OWNED PROPERTY

BORROWERS

Company	Location
Schuff Steel Company	420 S 19th Avenue Phoenix, AZ 85009 1705 W Battaglia Rd Eloy, AZ 85131 5055 Ken Morey Dr Bellemont, AZ 86015 2001 N Davis Rd Ottawa, KS 66067 1345 Hall Spencer Rd Rock Hill, SC 29730 2324 Navy Dr Stockton, CA 95206 325 S. Geneva Rd. Lindon, UT 84042
Aitken Manufacturing Inc.	4920 Airline Dr Houston, TX 77022
Schuff Steel Management Company – Southwest, Inc.	4320 E Presidio St, Ste 111 Mesa, AZ 85215
Graywolf Industrial, Inc.	2205 Ragu Dr. Owensboro KY 42303 1115 Industrial Drive Owensboro, KY 42301 280 Ellis Smeathers Rd. Owensboro, KY 42303 920 Wing Ave. Owensboro, KY 42303
GrayWolf Integrated Construction Company	14500 Smith Road Humble, TX 77396
Memco LLC	13324 Cedar Run Church Road Culpeper, VA 22701

LEASED PROPERTY

BORROWERS

Company	Property location	Landlord	Lease terms
DBM Global Inc.	3020 E Camelback Rd, Ste 100 Phoenix, AZ 85016	WAM 3020 Limited Partnership	144 months - Expires 10/31/2022
Schuff Steel Company	3003 N Central Ave, Ste 700 Phoenix, AZ 85012 2905 Premiere Pkwy., Ste. 210 Duluth, GA 30097 915 118th Ave. SE, Ste. 280 Bellevue, WA 98005 1971 W. 700 N., Ste. 101 Lindon, UT 84042 1401 Dove St., Ste. 530 Newport Beach, CA 92660 6701 W. 64th St., Ste. 200 Overland Park, KS 66202 7901 Stoneridge Dr., Ste. 211 Pleasanton, CA 94588 6500 SW Macadam Ave., Ste. 350 Portland, OR 97239 9174 Sky Park Court, Ste. 200 San Diego, CA 92123 10100 Trinity Parkway, Ste. 400 Stockton, CA 95219	A.G. Spanos Professional Office Center, LLC Sugarloaf Commerce Center LLC Spire Gateway LP Lindon Tech 3, LLC Palm Springs Village-309, LLC Cloverleaf 5 Building, LLC ECI Four 7901 Stoneridge, LLC Weston Investment Co. LLC d/b/a American Property Management Government Properties Income Trust, LLC A.G. Spanos Professional Office Center, LLC	64 months - Expires 7/31/2022 65 months – Expires 7/31/2025 63 months – Expires 3/31/2025 72 months - Expires 9/1/2025 63 months - Expires 9/30/2021 180 months - Expires 10/30/2021 60 months - Expires 8/31/2021 36 months - 87 months - Expires 7/31/2024 76 months - Expires 4/30/2025
Aitken Manufacturing Inc.	5008 Airline Dr. Houston, TX 77022	G.A. Repal	
DBM Vircon Services (USA) Inc.	2151 E. Broadway Rd. #220, Tempe, AZ 85282 1230 W. Washington St., Suite 201 Tempe, AZ 85281	Broadway 101 LLC Papago Buttes Corporate, LLC	Initially 67 months, extended by 39 - Expires 9/30/2021 Scheduled commencement 10/1/2021, 5 year term, will expire 9/30/2026
GrayWolf Integrated Construction Company-Southeast, Inc. (f/k/a Inco Services, Inc.)	3550 Francis Circle Alpharetta, GA 30004 4618 Highway #370 Cedar Springs, GA 39832 30333 County Road 49 Loxley, AL 36551 37 Artley Rd. Savannah, GA 31408	Green River Investments, LLC Inman Industrial Electric, Inc. Green River Investments, LLC Green River Investments, LLC	Lease dated 6/30/2011, 5 year term, extended 5 years through 7/31/2021. Lease dated 8/15/20, 1 year, expires 8/15/2021. Lease dated 6/30/2011, 5 year term, extended 5 years through 7/31/2021. Lease dated 6/30/2011, 5 year term, extended 5 years through 7/31/2021.

Company	Property location	Landlord	Lease terms
Milco National Constructors, Inc.	3930 Cherry Avenue Long Beach, CA 90807	3930 Cherry LLC	Extension signed 7/27/16 – 5 years – expires 9/30/2021
GrayWolf Integrated Construction Company (f/k/a Titan Contracting & Leasing Co.)	11800 Fairmont Pkwy. LaPorte, TX 77571	Vigavi Realty, LLC	61 months, signed 11/2/2015 – expired 12/31/2020, now month-to-month.
Banker Steel Co., LLC	2940 Fulks Street Lynchburg, VA 24501	2940 Fulks Street, LLC	
	1619 Wythe Road Lynchburg, VA 24501		Three-year term 12/1/2020 to 11/20/2022. Tenant option to renew for 2 additional 3-year terms.
	351 Rangoon Street Lynchburg, VA 24502	Store Capital Acquisitions, LLC	
	6635 Edgewater Drive Orlando, FL 32810	Store Capital Acquisitions, LLC	Master Lease dated 12/26/2018 covering VA and Edgewater Dr. (FL) plants; 20-year term expiring 12/31/2038. Option for 4 additional renewal terms of 5 years each.
		Store Capital Acquisitions, LLC	
	7351 Overland Road (plant) Orlando, FL 32810	Lockhart Center LLC	
	7351 Overland Road (yard) Orlando, FL 32810	Lockhart Center LLC	Lease dated 1/14/2021. No set term, either party can terminate upon 30-day notice.
	1291 S. Orange Blossom Trail Apopka, FL 32703	H2O Properties LLC	Lease dated 12/1/2015. Presently month-to-month. Lease renewed 8/20/2019 for 3-year term ending 8/31/2022. Tenant option to cancel as of 8/31/2021 with 30-day notice.
	8708 Wards Road Rustburg, VA 24588	WK Land and Timber, LLC	Lease dated 1/8/2019, runs 2/1/2019 – 1/31/2024.
	1640 New Market Ave., Building 2 Plainfield, NJ 07080	Harris Realty Company LLC	Lease dated 3/31/2016 for 15-year term expiring 3/31/31. Option for 2 additional renewal terms of 5 years/each.
	1641 New Market Ave., Building 7 Plainfield, NJ 07080	Harris Realty Company LLC	Same as above.
	1641 New Market Ave., Building 9 Plainfield, NJ 07080	Harris Realty Company LLC	Same as above.

Company	Property location	Landlord	Lease terms
Derr and Isbell Construction, LLC	10904 Crabapple Road Roswell, GA 30075 3900 Tarrant Main Street Euless, TX 76040 295 E Felton Road Cartersville, GA 30121	AT-PAC Properties US LLC Derr Construction Company; Derr Family Limited Partnership; Tank Builders, Inc. Cartersville Warehousing, LLC	Lease dated 3/30/2017, term ends 4/30/2022. Lease dated 1/23/2012, amended 12/31/2019 and 3/11/2021. Term ends 12/31/2021. Month-to-month (no formal lease agreement)
Innovative Engineering Solutions LLC	107 Oak Park Drive, Suite C Irmo, SC 29063	TAD Ventures, LLC	Lease dated 8/6/2019; term is 9/1/2019– 10/31/2022.
Lynchburg Freight & Specialty LLC	2940 Fulks Street Lynchburg, VA 24501	2940 Fulks Street, LLC	Lease dated 5/1/2014. Three-year term 12/1/2020 to 11/20/2022. Tenant option to renew for 2 additional 3-year terms.
NYC Constructors, LLC QB\~~85665838.1~~85665838.5	110 East 42nd St., Suite 610 New York, NY 10017 400 Madison Avenue New York, NY 10017	Gotham 42nd St. LLC DS400 Owner LLC	Lease dated 4/19/2002 (& 9 amendments). Term ends 3/31/2026. License agreement dated 12/14/2020 with two-year term ending 12/13/2022. Licensor can terminate upon 30-day notice. NYCC can terminate as of 2/14/2022 with 90-day notice.

GUARANTORS

None.

FOREIGN SUBSIDIARIES

Company	Property location	Landlord	Lease terms
DBM Vircon Services (NZ) Limited	Level 1, 16 St. Marks Rd, Epson, Auckland 1051 New Zealand	Berkshire Properties (NZ) Limited	2 years (11/30/2021)
BDS Vircon Co., Ltd.	24 Sukhumvit 21 Rd (Asoke) 14th Fl, Prime Building, Bangkok 10110 Thailand	Prime Holding Co., Ltd.	3 years (3/31/2020)
DBM Vircon Services (Australia) Pty Limited	32 Cordelia St Level1 A1, South Brisbane QLD 4101 Australia	Growthpoint Properties Australia Limited	3 years (10/31/2022)
DBM Vircon Services Ltd.	889 Carnarvon St., New Westminster, BC V3M1G2 Canada	450617 B.C. Ltd.	10 years with two 5-year options (July ___, 2022)
BDS Vircon Private Limited	DLF IT SEZ, Block 8, 3rd Floor, 1/124, Shivaji Gardens, Manapakkam, Mount Poonamallee High Road, Chennai, Tamil Nadu – 600089, India	DLF Assets Limited	5 years (1/31/2025)
BDS Vircon Private Limited	4th Fl, Wing 2, Office #4, Jyothirmaya Infopark, Phase 2 SEZ, Brahmapuram PO, Kochi, Ernakulam 682303 India	Infoparks Kerala	6 years (5/31/2024)
BDS Vircon Private Limited Schedule 5.23A	Cochin Special Economic Zone (CSEZ) 4th Fl, Wing 2, Office #4, Jyothirmaya Infopark, Phase 2 SEZ, Brahmapuram PO, Cochin 682303 India	Infoparks Kerala	6 years (6/1/2024)
PDC Asia-Pacific, Inc.	30th Corporate Center 6th Floor, Meralco Ave, Ortigas Center, Pasig City, Manila, Philippines	North Eastern Commercial Corp.	5 years (6/30/2023)

Company	Property location	Landlord	Lease terms
DBM Vircon Services (UK) Limited	Suite M, 2nd Floor, The Kidlington Centre, 4 High Street, Kidlington, Oxford OX5 2DL UK	Eames London Estates Limited	6 years (2/3/2026)
PDC Operations (Australia) Pty Ltd	21 Kintail Road, Level 2, Applecross (Perth) Western Australia	Kintail Developments Pty Ltd	5 years (10/10/2021)
DBM Vircon Services (Thailand) Company Ltd	24 Prime Building 14th floor, Soi Sukhumuit 21 (A soke) Sukhumuid Rd., Klong Toei-Nua, Sub-District Wattana District, Bangkok, Thailand 10110	Prime Holding Co., Ltd.	3 years (3/31/2023)
Innovative Detailing Services, Ltd.	695 Markham Road, Suite #29 et al Scarborough, ON M1R 2A5	A. & T. Kiriakou	Lease dated 4/15/2019. Currently month-to-month.
NYC Construction Services, Ltd.	15 Belfield Road, Units 2,5,6, and 7 Toronto, ON M9W 1E8	Biomedex Inc.	Lease dated 3/25/2019. Currently month-to-month.

SCHEDULE 6.10

DEBT

Schedule 6.10

None.

SCHEDULE 6.14

LIENS

1. Lien in favor of Wells Fargo Bank National Association ("Wells Fargo") on a cash collateral account of DBM Global Inc. or its affiliates held at Wells Fargo to secure reimbursement obligations of DBM Global Inc. or its affiliates with respect to one or more letters of credit issued by Wells Fargo.

2. Lien in favor of Fifth Third Bank National Association ("Fifth Third") on a cash collateral account of Banker Steel Co., L.L.C. or its affiliates held at Fifth Third to secure reimbursement obligations of Banker Steel Co., L.L.C. or its affiliates, as evidenced by the Cash Collateral Agreement, dated May 24, 2021, by and between Banker Steel Co., L.L.C. and Fifth Third.

SCHEDULE 6.23

INVESTMENTS

None.

Schedule 16.4

Summary report: Litera Compare for Word 11.6.0.100 Document comparison done on 2/8/2024 9:50:42 AM	
Style name: GT-3 (GT-1 with headers and footers)	
Intelligent Table Comparison: Active	
Original filename: DBM Global 23 Conformed Credit Agreement (Second Amendment).docx	
Modified filename: DBM Global 23 Conformed Credit Agreement (Second Amendment)-new.docx	
Changes:	
Add	57
~~**Delete**~~	50
~~Move From~~	0
Move To	0
Table Insert	0
~~**Table Delete**~~	0
Table moves to	0
~~Table moves from~~	0
Embedded Graphics (Visio, ChemDraw, Images etc.)	0
Embedded Excel	0
Format changes	0
Total Changes:	107

SUBLEASE AGREEMENT

THIS SUBLEASE AGREEMENT (the "***Sublease***") is made as of the 19th day of December, 2023 (the "**Execution Date**") by and between INNOVATE CORP. (the "***Sublessor***") having an office at 222 Lakeview Avenue, Suite 1660, West Palm Beach, Florida 33401 and PALM BEACH CULTURAL INNOVATION CENTER INC. (the "***Sublessee***") a Florida not-for-profit corporation having an office at 70 Royal Poinciana Way, Suite P70, Palm Beach, Florida 33480.

WITNESSETH:

WHEREAS, pursuant to that certain Indenture of Lease by and between RPP Palm Beach Property LP, as landlord (the "***Prime Landlord***"), and Sublessor, as tenant, dated as of November 1, 2021 (the "***Original Prime Lease***"), as amended by that certain Amendment No. 1 of Lease dated as of February 10, 2023 (the "***Prime Lease First Amendment***") and Amendment No. 2 of Lease dated on or about the date hereof (the "***Prime Lease Second Amendment***") (the Original Prime Lease, as amended from time to time, collectively, the "***Prime Lease***") Prime Landlord leased to Sublessor approximately 25,184 square feet of floor area (the "***Premises***") located in that certain shopping center commonly referred to as The Royal Poinciana Plaza located in the Town of Palm Beach, County of Palm Beach, State of Florida (the "***Shopping Center***"), as such Premises and Shopping Center are each more particularly defined and describing the Prime Lease; and

WHEREAS, Sublessor desires to sublease the Premises to Sublessee, and Sublessee desires to sublease the Premises from Sublessor, and Prime Landlord has consented or will consent to such subleasing on the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Subleasing of the Premises. Sublessor hereby subleases the Premises to Sublessee and Sublessee hereby subleases the Premises from Sublessor, upon and subject to all of the terms, covenants, rentals and conditions hereinafter set forth. The Premises shall also include any and all rights of Sublessor in and to the Outside Patio Area as described in Section 18.27 of the Prime Lease.

2. Term. This Sublease shall be in full force and effect from the date it has been executed by Sublessor and Sublessee and consented to by Prime Landlord. The term (the "***Sublease Term***") of this Sublease shall commence on December 19, 2023 (the "***Commencement Date***"), and expire at midnight on the day prior to the Expiration Date of the Prime Lease (the "***Expiration Date***"), unless sooner terminated as hereinafter provided.

3. No Sublease Rent; Sublessor Responsible for Prime Lease Rent.

(a) Sublessee's sole consideration for this Sublease shall be Sublessee's assumption of Sublessor's obligation to complete Tenant's Initial Work under Section 4 hereinbelow, and Sublessor shall remain responsible, at its sole expense, for any and all charges attributable to the ownership, operation and maintenance of the Premises, Building and Property, including without limitation any and all real property taxes and assessments, insurance costs and expenses, and maintenance and repair of the Building and/or Common Areas.

(b) Sublessor and Sublessee hereby acknowledge and agree that, except as otherwise expressly set forth herein as an obligation of Sublessee, Sublessor shall be responsible, at its sole expense, for any and all base or minimum rent (including, without limitation, Minimum rent payments as defined in the Prime Lease), additional rent, costs, expenses and charges attributable to the leasing, occupancy, operation and maintenance of the Premises which may be assessed under the Prime Lease, including without limitation any and all real property taxes and assessments (including Taxes as defined in the Prime Lease, insurance costs and expenses, and common area maintenance costs (including, without limitation, Tenant's CAM Charge, as defined in the Prime Lease).

4. Construction of Tenant's Initial Work.

(a) Sublessor and Sublessee hereby agree that Sublessee shall have all rights and responsibilities under the Prime Lease for completing Tenant's Initial Work subject to and in accordance with the terms and conditions of the Prime Lease. Sublessor hereby assigns, and Sublessee assumes, all of Sublessor's rights, privileges, duties and obligations under the Prime Lease which pertain to the construction and completion of Tenant's Initial Work. Sublessor agrees that Sublessee shall have the right, in its reasonable discretion, to contract with third parties to complete its obligations with respect to Tenant’s Initial Work hereunder.

(b) Sublessor hereby represents and warrants to Sublessee that Sublessor has fully paid any and all Design Costs (as described in Section 6(a) of the Prime Lease) which were due and payable to Prime Landlord prior to the Execution Date of this Sublease. Sublessee hereby agrees to be responsible for any and all Design Costs which Sublessor would be obligated to pay to Prime Landlord under Section 6(a) of the Prime Lease First Amendment which accrue from and after the Execution Date of this Sublease. Sublessor shall use best efforts to cause Prime Landlord to bill Sublessee directly for such Design Costs, or if such direct billing is not possible, to deliver any invoices received from Prime Landlord for such Design Costs within three (3) business days following Sublessor's receipt thereof.

(c) Sublessee hereby agrees to be responsible for all Upgrade Work Hard Costs, Below the Line Hard Costs and Certain Soft Costs, up to a maximum amount equal to the Upgrade Work Cap, all as defined and described in Section 6(c) of the Prime Lease First Amendment. Sublessor shall use best efforts to cause Prime Landlord to bill Sublessee directly for such costs associated with the Upgrade Work described in the foregoing sentence, or if such

direct billing is not possible, to deliver any invoices received from Prime Landlord for such costs within three (3) business days following Sublessor's receipt thereof.

(d) Sublessor hereby unconditionally assigns to Sublessee any and all construction allowances or reimbursements, including without limitation the any portion of the Tenant Allowance, to which Sublessor may be entitled under the Prime Lease with respect to Tenant's Initial Work. Sublessor shall pay any portion of the Allowance received by Sublessor to Sublessee within three (3) business days following Sublessor's receipt thereof.

(e) Sublessee hereby agrees that it shall be responsible for the Tenant's Obligations with respect to the FF&E Assets, as such terms are more particularly defined and described in Section 18.24 of the Prime Lease.

5. Use or Premises. Sublessor and Sublessee acknowledge and agree that Sublessee shall have primary use of the Premises throughout the Sublease Term for the purpose of occupying and operating the Premises for the purposes permitted under the Prime Lease. Sublessor and Sublessee agree to negotiate in good faith with respect to any continued use of the Premises by Sublessor.

6. Care, Surrender and Restoration of the Premises.

(a) During the Sublease Term, Sublessee shall be responsible for such maintenance, repair and replacement of the Premises as required of Sublessor under the Prime Lease.

(b) Upon the Expiration Date or sooner termination of this Sublease, Sublessee shall quit and surrender the Premises to Sublessor in the condition required for surrender under the Prime Lease.

(c) Sublessor agrees that any FF&E Assets paid for by Sublessee ("**Sublessee FF&E**") shall be the sole property of Sublessee, subject, however, in all events to the terms and provisions of Section 18.24 of the Prime Lease as if the Sublessee FF&E were FF&E Assets thereunder and Subtenant were responsible for Tenant's Obligations with respect to such Sublessee FF&E.

7. Incorporation of Prime Lease; Recognition and Non-Disturbance.

(a) The terms, provisions, covenants, stipulations, conditions, rights, obligations, remedies and agreements of the Prime Lease are incorporated into this Sublease by reference and made a part hereof as if herein set forth at length, and shall, as between Sublessor and Sublessee, constitute the terms of this Sublease, except to the extent that they do not expressly relate to the Premises or are expressly inapplicable to, or expressly modified or eliminated by, the terms of this Sublease. Sublessor and Sublessee each agree to observe and be bound by each and every covenant, condition and provision of the Prime Lease insofar as any such covenant, condition or provision affects the Premises or Sublessee's use thereof.

(b) Sublessor shall provide, or cause to be provided, all of the services and to perform any of the obligations required of Prime Landlord by the terms of the Prime Lease and whenever the consent of the Prime Landlord is required under the Prime Lease, and whenever the Prime Landlord fails to perform its obligations under the Prime Lease, Sublessor agrees to use its best efforts to obtain that consent or performance on behalf of Sublessee.

(c) Sublessor shall pay each installment of minimum rent, additional rent, and any other sum due under the Prime Lease when the same are due and payable under the terms of the Prime Lease and will duly observe and perform every term and condition of the Prime Lease, except to the extent that any failure to so pay or to observe or perform shall have directly resulted from any default by Sublessee hereunder.

(d) Sublessor further covenants and agrees: (a) not to terminate the Prime Lease voluntarily (including without limitation, the exercise of the Early Termination Right as described in Section 2 of the Prime Lease First Amendment), (b) not to modify or amend the Prime Lease so as to adversely and materially affect Sublessee's rights hereunder, and (c) to take all actions reasonably necessary to preserve the Prime Lease, including, without limitation, the valid and timely exercise of any options to renew or extend the Prime Lease. Sublessor and Sublessee each agree to refrain from any act or omission that would result in the failure or breach of any of the covenants, provisions, or conditions of the Prime Lease on the part of the tenant/lessee thereunder.

(e) Sublessor shall provide Sublessee a copy of any notice received by Sublessor under the Prime Lease, such notice to be delivered no later than three (3) business days after Sublessor's receipt of the same if such notice directly relates to this Sublease or impacts Sublessee's use or occupancy of the Premises. Sublessor will also give Sublessee a copy of any notice given by Sublessor under the Prime Lease concurrently with the delivery of such notice to Prime Landlord if such notice directly relates to this Sublease or impacts Sublessee.

(f) Prior to or simultaneously with the execution and delivery of this Sublease, Sublessor shall have obtained the written consent of Landlord to this Sublease in accordance with the terms of the Prime Lease (the "***Consent***"). Each of Sublessor and Sublessee agrees to execute and deliver such Consent and to be bound by the terms and provisions thereof.

8. Sublessee's Obligations. Except as otherwise specifically provided herein, all acts to be performed and all of the terms and provisions to be observed by Sublessor, as Tenant under the Prime Lease shall be performed and observed by Sublessee.

9. Sublessor's Default; Sublessee's Remedies.

(a) In the event Sublessor fails to perform on or before the required date for performance any obligation set forth in this Sublease or the Prime Lease to be performed by Sublessor or breaches any representation, warranty or covenant set forth herein, and such failure or breach continues for thirty (30) days after receipt by Sublessor of notice from Sublessee (or

such additional period, if any, as may be reasonably required to cure the failure or breach if the same reasonably cannot be cured within a thirty (30) day period, provided Sublessor commences to cure within thirty (30) days after receipt of notice and thereafter diligently pursues such cure to completion), Sublessee may (i) terminate this Sublease, (ii) obtain such remedy or relief as may be available at law or in equity, or (iii) perform such obligations on behalf of Sublessor. Notwithstanding the foregoing, if such breach or failure is of an emergency nature (i.e., imminent material damage or injury to persons or property) and Sublessor fails to cure the same immediately upon notice from Sublessee, Sublessee may proceed to make such repairs as are reasonably necessary to protect persons or property. In the event Sublessee performs any of such obligations of Sublessor pursuant to the preceding sentence or clause (iii) above, Sublessor will, on demand, reimburse Sublessee for Sublessee's expenses incurred thereby. Each right and remedy of Sublessee provided for in this Sublease or now or hereinafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall not preclude Sublessee from exercising any other rights or remedies available.

(b) Without limiting the foregoing, in the event this Sublease is terminated prior to the Expiration Date for any reason other than a default by Sublessee, then Sublessor shall be obligated to reimburse Sublessee for, and indemnify and hold Sublessee harmless from, any sums, costs, expenses or liabilities in connection with the recapture of any capital investment in the Premises payable to third party service providers of Sublessee including without limitation under any contracts entered into by Sublessee with third parties to complete its obligations with respect to Tenant’s Initial Work hereunder.

10. Representations and Warranties; Broker.

(a) Each party represents and warrants to the other that it has the power and authority to enter into this Sublease, and that this Sublease is the valid and binding obligation of such party and is enforceable against it in accordance with its terms.

(b) Sublessor and Sublessee represent and warrant to each other that neither has dealt with any broker in connection with this Sublease. Sublessor and Sublessee shall indemnify the other against, and hold each other harmless from, any claim of, or liability to, any broker or any party with whom Sublessor or Sublessee shall have dealt in connection with this transaction or Sublease. Sublessor shall pay any commissions or fees that are payable to the Broker with respect to this Sublease, in accordance with the provisions of a separate commission contract.

11. Indemnification. Sublessor shall indemnify, defend, protect, and hold Sublessee and its officers, directors, shareholders, partners, employees and representatives free and harmless from any obligation, loss, claim, action, liability, penalty, damage, cost or expense, including, without limitation, reasonable attorneys' fees and disbursements, that is imposed or asserted by any third party, including Prime Landlord (collectively, “***Claims***”), to the extent arising from (a) any cause occurring in the Premises prior to the Commencement Date, (b) Sublessor's use and occupancy of the Premises prior to the Commencement Date, or (c) any obligation of Sublessor under the Prime Lease except to the extent any of the foregoing is caused

or by the negligence or willful misconduct of Sublessee. Sublessee hereby agrees to indemnify and hold Sublessor harmless from and against any and all Claims asserted against Sublessor by (i) the Prime Landlord or any third party for failure of Sublessee to perform any of the covenants, agreements, terms, provisions or conditions contained in the Prime Lease, which, by the express terms of this Sublease, Sublessee is obligated to perform, (ii) the Prime Landlord or any third party for failure of Sublessee to perform any of the covenants, agreements, terms, provisions or conditions contained in this Sublease, and/or (iii) any person by reason of Sublessee's use and/or occupancy of the Premises, except to the extent any of the foregoing is caused or by the negligence or willful misconduct of Sublessor. The provisions of this Section shall survive the expiration or earlier termination of the Prime Lease and/or this Sublease.

12. Quiet Enjoyment. As long as Sublessee performs and observes all of the obligations, terms and conditions contained herein and in the Prime Lease as herein incorporated, Sublessee shall peaceably and quietly have, hold and enjoy the Premises without hindrance, ejection, molestation, or interruption by or from Sublessor.

13. Insurance. Sublessee shall obtain and keep in full force and effect during the Sublease Term with regard to the Premises, at its sole cost and expense, commercial general public liability insurance, property damage insurance, and fire and extended coverage insurance and any other insurance coverage required to be obtained by Sublessor, as tenant under the Prime Lease, and such insurance coverage shall be in the nature and amounts set forth therein and otherwise be in accordance with the requirements set forth in the Prime Lease. Such insurance policies shall name Sublessee, Sublessor and Prime Landlord (and its reasonable designees) as insureds thereunder. Nothing contained herein shall be construed to relieve Sublessor's responsibility to carry any and all insurance it is required to carry, as tenant, under the Prime Lease, and any such insurance policies shall name Sublessee as an additional insured or loss payee (as its interests may appear), as applicable, thereunder.

14. Waiver of Subrogation. Sublessor and Sublessee hereby waives any and all rights of recovery against the other and its officers, agents, employees, or representatives, for the loss, damage, or injury to property arising from any event which is covered by insurance against fire, vandalism, malicious mischief, and extended coverage, and such other perils as are from time to time included in the "all risk" insurance policy(ies) carried by Sublessor and Sublessee pursuant to this Sublease, provided that such waiver shall apply only to the extent of any recovery by the injured party under such insurance. Sublessor and Sublessee, on behalf of its respective insurance companies hereby waives, to the extent of any recovery under any such insurance policies, any right of subrogation that one may have against the other. Each party hereto shall use commercially reasonable efforts to cause its respective insurance policies to contain endorsements evidencing such waivers of subrogation.

15. Notices. All notices or other required communications hereunder shall be in writing and shall be deemed duly given when delivered in person (with receipt therefore), or if sent by a nationally recognized overnight courier service or deposited in the United States mail by certified or registered mail, return receipt requested, postage prepaid, to the below addresses. Any such notices or other required communication shall be deemed to have been given on the

date of receipted delivery, refusal to accept delivery or when delivery is first attempted but cannot be made due to a change of address for which no notice is given or three (3) business days after it shall have been mailed as provided in this Section 15, whichever is earlier.

(a) if to Sublessee: Palm Beach Cultural Innovation Center, Inc.
70 Royal Poinciana Way
Suite P70
Palm Beach, Florida 33480

With a copy to: Woods Oviatt Gilman LLP
1900 Bausch & Lomb Place
Rochester, New York 14604
Attention: Mitchell S. Nusbaum, Esq.

(b) if to Sublessor: Innovate Corp.
295 Madison Avenue, 12th Floor
New York, New York 10017
Attention: Chief Executive Officer

(c) if to Prime Landlord: RPP Palm Beach Property LP
c/o WS Asset Management, Inc.
33 Boylston Street, Suite 3000
Chestnut Hill, Massachusetts 02467

With a copy to: Goulston & Storrs PC
400 Atlantic Avenue
Boston, Massachusetts 02110
Attention: WS - RPP

In addition, with respect to any notice intended for Prime Landlord, Tenant agrees, simultaneously with sending such notice in accordance with the terms and provisions set forth above, to send a copy of such notice to Landlord at LegalNotices@WSDevelopment.com. Sublessee shall promptly after receipt thereof, furnish to Sublessor by hand delivery a copy of any notice, demand or other communication received from Prime Landlord with respect to the Premises.

16. Miscellaneous.

(a) This Sublease may not be extended, renewed, terminated (other than in accordance with the terms hereof), or otherwise modified except by an instrument in writing signed by the party against whom enforcement of any such modification is sought.

(b) It is understood and agreed that all understandings and agreements heretofore had between the parties hereto are merged in this Sublease, which alone fully and

completely expresses their agreement. This Sublease has been entered into after full investigation, neither party relying upon any statement, representation or warranty made by the other not embodied in this Sublease.

(c) Unless otherwise specifically defined in this Sublease, capitalized terms utilized in this Sublease will have the meaning ascribed to such terms in the Prime Lease.

(d) The section headings appearing herein are for purposes of convenience only and are not deemed to be a part of this Sublease.

(e) The provisions of this Sublease shall be governed by and construed in accordance with the laws of the State of Florida.

(f) Time is of the essence as to the obligations contained in this Sublease.

(g) Sublessor and Sublessee each hereby waive trial by jury in any action, proceeding or counterclaim brought by either of them against the other in connection with any matter arising out of or in any way connected with this Sublease, Sublessee's use or occupancy of the premises, and/or any claim for injury or damage.

(h) Sublessor and Sublessee each hereby agree that a memorandum of this Sublease may be recorded by either party, at the requesting party's expense, provided that, upon the expiration or earlier termination of the Sublease, the parties agree to cause a termination of such Memorandum of Sublease to be recorded promptly (and in all events within thirty (30) days of said expiration or earlier termination) in the real property records of Palm Beach County. In no event shall such Memorandum of Sublease set forth the rental or other charges payable by either party; and any such Memorandum shall expressly state that it is not intended to vary the terms and conditions of this Sublease and that in all events that this Sublease is subject and subordinate to the Prime Lease Consent.

(i) To facilitate execution, this Sublease may be executed in as many counterparts as may be convenient or required. It shall not be necessary the signature of, or on behalf of each party, or the signature of all persons required to bind any party, appear on each counterpart. All counterparts collectively constitute a single document. A fully executed facsimile or scanned copy (PDF) of this Lease by electronic file transmission, by electronically imaged signatures provided by DocuSign or any other digital signature provider, or by original manual signature, regardless of the means or any variation in pagination or appearance, shall be effective as an original.

[SIGNATURE BLOCKS ON NEXT PAGE]

IN WITNESS WHEREOF, this Sublease has been duly executed as of the day and year first above written.

SUBLESSOR:

INNOVATE CORP.

By: */s/ Michael Sena*
Name: Michael Sena
Its: Chief Financial Officer

SUBLESSEE:

PALM BEACH CULTURAL INNOVATION CENTER INC.

By: */s/ Jill Glazer*
Name: Jill Glazer
Its: President

INVESTMENT AGREEMENT

between

INNOVATE Corp.
as the Company

and

LANCER CAPITAL LLC
as the Purchaser

Dated as of March 5, 2024

TABLE OF CONTENTS

Investment Agreement

March 5, 2024

Lancer Capital LLC
777 South Flagler Drive Suite 800W
West Palm Beach, FL 33401
Attn: Avram A. Glazer

Ladies and Gentlemen:

INNOVATE Corp., a Delaware corporation (the "Company"), is raising additional equity capital through the Rights Offering (this and certain other terms used herein are defined in Section 11 of this agreement (this "Agreement")) pursuant to which the Company would distribute to its common stockholders, and holders of its outstanding preferred stock and convertible notes that are entitled to participate in dividend distributions to its common stockholders, transferable rights to purchase up to $19,000,000 of its Common Stock (as defined below) on a pro rata basis ("Rights Offering Amount") and has had discussions with Lancer Capital LLC, a Delaware limited liability company (the "Purchaser"), regarding the Purchaser's willingness to effectively "back-stop" the Rights Offering by purchasing up to $19,000,000 (the "Equity Commitment Amount") of Preferred Shares (as defined below) pursuant to the terms of, and subject to the conditions contained in, this Agreement. In addition, the Company has requested the Purchaser to purchase an additional $16,000,000 of Preferred Shares in a private placement concurrently with the closing of the Rights Offering pursuant to the terms of, and subject to the conditions contained in, this Agreement.

NOW, THEREFORE, in consideration of the premises and the mutual agreements contained herein, and intending to be legally bound, the Company and the Purchaser hereby agree as follows:

1. Authorization of Preferred Shares. The Company has authorized and provided for the issuance of 35,000 shares of its preferred stock, par value $0.001 per share, to be designated as "Series C Non-Voting Participating Convertible Preferred Stock" (the "Preferred Shares"). The Preferred Shares shall have the relative rights, preferences and limitations, including the right to convert the Preferred Shares into shares of the Company's common stock, par value $0.001 per share (the "Common Stock"), as set forth in the form of the Certificate of Designations attached as Exhibit A hereto (the "Certificate of Designations").

2. Sale and Purchase of Back-stop and Private Placement Shares. On the basis of the representations and warranties and subject to the terms and conditions set forth herein:

   (a) the Purchaser agrees to purchase, at the Back-stop/Private Placement Closing provided for in Section 3, 16,000 Preferred Shares (the "Private Placement Shares") at a purchase price of $1,000 per Private Placement Share, for an aggregate purchase price of $16,000,000;

(b) (i) Purchaser shall not, and shall cause all of its Affiliates and Associates (other than individuals to whom Rights are distributed in their individual capacities as stockholders of the Company) and all of its and their direct and indirect assigns (and subsequent assigns) of Common Stock and/or Rights not to, with respect to Rights distributed to the Purchaser, all such Affiliates and Associates and all such transferees and assigns pursuant to their subscription privileges, exercise or transfer such Rights (or exercise any over-subscription privilege attributable to such Rights) and shall hold such Rights until such time as they expire without value and (ii) to the extent that the Rights Offering is not fully subscribed by stockholders of the Company through the exercise of basic subscription rights *plus* over-subscriptions, the Purchaser shall purchase Preferred Shares (the "Back-stop Shares"), in the amount equal to the Equity Commitment Amount (the "Back-stop Arrangement").

3. Back-stop/Private Placement Closing; Payment of Purchase Price

3.1. Back-stop/Private Placement Closing Date. Purchaser shall purchase the Back-stop Shares pursuant to the Back-stop Arrangement and the Private Placement Shares, and the sale of such Back-stop Shares and Private Placement Shares shall take place at a closing (the "Back-stop/Private Placement Closing") which shall occur promptly following the expiration of the offering period with respect to the Rights Offering and the satisfaction or waiver of the conditions to Back-stop/Private Placement Closing set forth in Section 4 by the party entitled to waive such conditions or following such time as agreed upon by the Company and the Purchaser at the offices of Woods Oviatt Gilman, LLP, 1900 Bausch and Lomb Place, Rochester, New York 14604.

3.2. Issuance of Preferred Shares at Back-stop/Private Placement Closing. At the Back-stop/Private Placement Closing, and subject to the terms and conditions hereof, the Company will deliver or cause to be delivered one or more certificates evidencing the Back-stop Shares and the Private Placement Shares to be purchased at the Back-stop/Private Placement Closing.

3.3. Payment at Back-stop/Private Placement Closing. At the Back-stop/Private Placement Closing, the Purchaser shall deposit the purchase price for the Back-stop Shares and the Private Placement Shares to be purchased at the Back-stop/Private Placement Closing by wire transfer of immediately available funds to a bank account of the Company designated in writing by the Company prior to the Back-stop/Private Placement Closing.

3.4. Reservation of Common Stock. The shares of Common Stock issuable upon conversion of the Preferred Shares shall have been duly authorized by all necessary corporate action and approved for listing on the New York Stock Exchange (the "NYSE"), subject to official notice of issuance.

4. Conditions to Back-stop/Private Placement Closing. The Purchaser's obligation to purchase and pay for the Back-stop Shares and the Private Placement Shares to be sold to the Purchaser at the Back-stop/Private Placement Closing is subject to the fulfillment, prior to or concurrently with the Back-stop/Private Placement Closing, of the following conditions:

4.1. Performance. The Company shall have delivered one or more certificates evidencing the Back-stop Shares and the Private Placement Shares in accordance with Section 3.2.

4.2. Certificate of Designations. The Certificate of Designations shall have been duly filed with the Secretary of State of the State of Delaware, and the Company's Second Amended and Restated Certificate of Incorporation, as amended by the Certificate of Designations (the "Charter"), shall be in full force and effect.

4.3. Registration Rights Agreement. The Purchaser shall have received a fully executed counterparts of the Registration Rights Agreement substantially in the form attached as Exhibit B hereto (the "Registration Rights Agreement").

4.4. No Actions Pending. There shall be no proceeding by any Governmental Authority pending that would enjoin or prevent the consummation of the Back-stop/Private Placement Closing.

5. Equity Advance.

5.1. Sale and Purchase of Equity Advance Shares. Notwithstanding Sections 2, 3, and 4, if for any reason the Rights Offering is not closed by noon Eastern time on March 28, 2024, then the Purchaser shall at the Equity Advance Closing (as defined below), on the basis of the representations and warranties and subject to the terms and conditions set forth herein, purchase 25,000 Preferred Shares (the "Equity Advance Shares") at a purchase price of $1,000 per Equity Advance Share, for an aggregate purchase price of $25,000,000 (the "Equity Advance"); provided, however, that upon the closing of the Rights Offering, to the extent that the Purchaser would have, based on the number of shares of Common Stock actually sold upon exercise of the Rights, purchased less than 25,000 Preferred Shares upon consummation of Back-stop Commitment and the Concurrent Private Placement in accordance with Section 2, the Company shall, concurrently with the closing of the Rights Offering, redeem such excess number of Preferred Stock from the Purchaser at the redemption price of $1,000 per Preferred Share.

5.2. Closing of the Equity Advance. Purchaser shall purchase the Equity Advance Shares, and the sale of such Equity Advance Shares shall take place at a closing (the "Equity Advance Closing") which shall occur on March 28, 2024, subject to the satisfaction or waiver of the conditions to Equity Advance set forth in Section 5.6 by the party entitled to waive such conditions or following such time as agreed upon by the Company and the Purchaser at the offices of Woods Oviatt Gilman, LLP, 1900 Bausch and Lomb Place, Rochester, New York 14604.

5.3. Issuance of Preferred Shares at Equity Advance Closing. At the Equity Advance Closing, and subject to the terms and conditions hereof, the Company will deliver or cause to be delivered one or more certificates evidencing the Equity Advance Shares to be purchased at the Equity Advance.

5.4. Payment at Equity Advance Closing. At the Equity Advance Closing, the Purchaser shall deposit the purchase price for the Equity Advance Shares to be purchased at the Equity Advance Closing by wire transfer of immediately available funds to a bank account of the Company designated in writing by the Company prior to the Equity Advance Closing.

5.5. Reservation of Common Stock. The shares of Common Stock issuable upon conversion of the Equity Advance Shares shall have been duly authorized by all necessary corporate action and approved for listing on the NYSE, subject to official notice of issuance.

5.6. Conditions to Equity Advance Closing. The Purchaser's obligation to purchase and pay for the Equity Advance Shares to be sold to the Purchaser at the Equity Advance Closing is subject to the fulfillment, prior to or concurrently with the Equity Advance Closing, of the following conditions:

5.6.1. Performance.The Company shall have delivered one or more certificates evidencing the Equity Advance Shares in accordance with Section 5.3.

5.6.2. Certificate of Designations. The Certificate of Designations shall have been duly filed with the Secretary of State of the State of Delaware, and the Company's Second Amended and Restated Certificate of Incorporation, as amended by the Certificate of Designations (the "Charter"), shall be in full force and effect.

5.6.3. Registration Rights Agreement. The Purchaser shall have received a fully executed counterparts of the Registration Rights Agreement.

5.6.4. No Actions Pending. There shall be no proceeding by any Governmental Authority pending that would enjoin or prevent the consummation of the Equity Advance Closing.

6. Representations and Warranties of the Company. The Company represents and warrants that:

6.1. Organization, Standing, etc. The Company has been duly incorporated and is validly existing and in good standing under the laws of the State of Delaware and has all requisite corporate power and authority to own and operate its properties, to carry on its business as now conducted, to enter into and perform all of its obligations under this Agreement, the Certificate of Designations and the Registration Rights Agreement, to issue and sell the Preferred Shares (and the shares of Common Stock issuable upon the conversion of the Preferred Shares) and to consummate the transactions contemplated hereby.

6.2. Capital Stock. The description of capital stock set forth in the Company's registration statement on Form S-3 filed with the SEC on September 29, 2023 (the "Registration Statement") is accurate in all material respects. All of the outstanding shares of the Company's capital stock are, and at each Closing will be, validly issued and outstanding, fully paid and non-assessable.

6.3. No Conflict with Other Instruments. Except as would not reasonably be expected to have, individually or in the aggregate, a Material Adverse Effect, the execution, delivery and performance of this Agreement, the Certificate of Designations and the Registration Rights

Agreement by the Company will not conflict with or violate (i) any provisions of its organizational documents, (ii) any note, loan or indenture of the Company or (iii) any federal, state or local laws.

6.4. Governmental Consents, etc. Except as may be required by the NYSE or any applicable regulator, no consent, approval or authorization of, or declaration or filing with, any Governmental Authority on the part of the Company is required for the valid execution and delivery of this Agreement, the valid offer, issue, sale and delivery of the Preferred Shares pursuant to this Agreement or the valid issue and delivery of shares of Common Stock issuable upon conversion of the Preferred Shares. Except for (a) the requirements of applicable state securities or blue sky laws, (b) consents, approvals, filings or notices that will be given or made at or prior to the time of the Closing, (c) filings and approvals required in connection with the compliance by the Company with its registration obligations pursuant to the Registration Rights Agreement, (d) approvals from the NYSE or (e) any consents, approvals or filings with any applicable regulators, neither the Company nor any of its Subsidiaries is required to obtain any consent, approval or authorization of, or to make any declaration or filing with, any Governmental Authority as a condition to the valid execution, delivery or performance of the Registration Rights Agreement or the consummation of the transactions contemplated thereby.

6.5. Offering of Securities. Neither the Company nor any Person acting on its behalf has offered the Preferred Shares or any similar securities of the Company to, or solicited any offers to buy any thereof from, or otherwise approached or negotiated with respect thereto with, any Person or Persons by any form of general solicitation or general advertising or in any other manner as would subject the offering, issuance or sale of any of the Preferred Shares to the provisions of Section 5 of the Securities Act. Neither the Company nor any Person acting on behalf of the Company has taken or will take any action which would subject the offering, issuance or sale of any of the Preferred Shares to the provisions of Section 5 of the Securities Act.

6.6. Disclosure. Each document filed by the Company with the SEC pursuant to the Exchange Act since the filing of the Company's Annual Report on Form 10-K for the fiscal year ended December 31, 2023 (collectively, the "SEC Documents"), when they were filed with the SEC, conformed in all material respects to the requirements of the Exchange Act and the rules and regulations of the SEC thereunder. None of the SEC Documents (as of the respective dates they were filed with the SEC) contained any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements contained herein or therein, in light of the circumstances under which they are made, not misleading.

6.7. Enforceability. This Agreement and the Registration Rights Agreement have been duly authorized, and executed and delivered by the Company (assuming the due authorization, execution and delivery thereof by the Purchaser) and constitute the valid and binding obligations of the Company, enforceable in accordance with their respective terms, except as the enforcement thereof may be limited by bankruptcy, insolvency (including all laws relating to fraudulent transfers), reorganization, moratorium or other similar laws relating

to or affecting enforcement of creditors' rights generally, or by general principles of equity (regardless of whether enforcement is considered in a proceeding in equity or at law), or, in the case of the Registration Rights Agreement, the rights to indemnification and contribution contained therein may be limited by applicable state or federal securities laws or the public policy underlying such laws.

7. Representations and Warranties of the Purchaser. The Purchaser hereby represents and warrants to the Company as follows:

7.1. Authorization; Good Standing; Power and Authority. The Purchaser is duly formed, validly existing and in good standing under the laws of its jurisdiction formation. The Purchaser has full power and authority to enter into this Agreement, the Registration Rights Agreement and to consummate the transactions contemplated by this Agreement and the Registration Rights Agreement. This Agreement and the Registration Rights Agreement constitute a valid and legally binding obligation of the Purchaser, enforceable in accordance with its terms, except (i) as limited by applicable bankruptcy, insolvency, reorganization, moratorium, fraudulent conveyance, or other laws of general application relating to or affecting the enforcement of creditors' rights generally or (ii) as limited by laws relating to the availability of specific performance, injunctive relief, or other equitable remedies.

7.2. Investment Representations. The Purchaser understands that neither the Preferred Shares nor any Common Stock issuable upon conversion of the Preferred Shares has been, or shall upon delivery be, registered under the Securities Act and that the certificates evidencing the Preferred Shares and such Common Stock shall bear a legend to that effect as set forth in Section 9.2. The Purchaser also understands that the Preferred Shares are being offered and sold to it pursuant to an exemption from registration contained in the Securities Act, based in part upon its representations contained in this Agreement.

7.3. Governmental Consents and Filings. No consent, approval, order or authorization of, or registration, qualification, designation, declaration or filing with, any federal, state or local governmental authority is required on the part of the Purchaser in connection with the consummation of the transactions contemplated by this Agreement, except for any required filings pursuant to the Securities Act and any applicable state securities laws.

7.4. No Conflict with Other Instruments. The execution, delivery and performance of this Agreement and the Registration Rights Agreement by the Purchaser will not conflict with or violate (i) any provisions of its organizational documents, (ii) any note, loan or indenture of the Purchaser or (iii) any federal, state or local laws.

7.5. Acquisition for Own Account. The Purchaser is acquiring the Preferred Shares and any shares of Common Stock issued upon conversion thereof for its own account for investment and not with a view toward distribution in a manner which would violate the Securities Act.

7.6. Ability to Protect Its Own Interests and Bear Economic Risks; Accredited Investor. Purchaser (a) has such knowledge and experience in financial and business matters and in investments of this type that it is capable of evaluating the merits and risks of the entry into this Agreement and the transactions contemplated hereby and of making an informed investment decision without reliance on the Company or any of its Affiliates or representatives, (b) is an "accredited investor" (as that term is defined by Rule 501 of the Securities Act), and (c) (i) has been furnished with or has had full access to all the information that it considers necessary or appropriate to make an informed investment decision with respect to the entry into this Agreement and the transactions contemplated hereby and (ii) has had an opportunity to discuss with the Company and its representatives the intended business and financial affairs of the Company and to obtain information necessary to verify any information furnished to it or to which it had access. Purchaser has such knowledge and experience in business and financial matters so as to enable it to understand and evaluate the risks of, and form an investment decision with respect to, this Agreement and the transactions contemplated hereby. Purchaser has made its own independent analysis and decision to enter into this Agreement and effect the transactions contemplated by this Agreement relying solely upon the advice of its own financial, legal, tax, accounting and other advisors as it has deemed necessary. Purchaser understands that, in making a decision to enter into this Agreement and effect the transactions contemplated by this Agreement, the Company is expressly relying on the acknowledgements and agreements of the Purchaser set forth in this Agreement.

7.7. Sophisticated Entity. Purchaser is a sophisticated entity with knowledge and experience in financial and business matters, including considerable experience in investments in securities such as the Preferred Shares and the Common Stock, has adequate information concerning the Preferred Shares and the Common Stock. Purchaser believes, by reason of its business and financial experience, that the Purchaser is capable of evaluating the merits and risks of the transactions contemplated by this Agreement and of protecting its own interest in connection with the transactions contemplated by this Agreement.

7.8. Material, Non-Public Information. Purchaser acknowledges its responsibilities under the federal and state securities laws relating to restrictions on trading in securities of an issuer while in possession of material, non-public information, and restrictions on sharing such information with other Persons who may engage in such trading.

7.9. No Brokers. No broker's or finder's fees or commissions will be payable by the Purchaser with respect to the transactions contemplated by this Agreement, and the Purchaser hereby indemnifies and holds the Company harmless from any claim, demand or liability for broker's or finder's fees alleged to have been incurred at the instance of the Purchaser, its Affiliates or Associates or agents or any Person acting on behalf of or at the request of the Purchaser, its Affiliates or Associates or agents.

7.10. Financing. As of the date hereof, Purchaser has access to available funds necessary to pay the purchase price for the Preferred Shares in full on the terms and conditions contemplated by this Agreement.

7.11. Tax. The Purchaser maintains its domicile or principal place of business at the address set forth above and the Purchaser is not merely transient or temporarily resident at such address.

7.12. ERISA. No portion of the assets used by the Purchaser to acquire or hold the Preferred Shares (or the shares of Common Stock issuable upon the conversion of the Preferred Shares) constitutes or will constitute "plan assets" (within the meaning of 29 C.F.R. Section 2510.3-101 (as modified by Section 3(42) of ERISA) of (A) any "employee benefit plan" subject to Title I of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"), (B) an individual retirement account (an "IRA") and other arrangement subject to Section 4975 of the Code, or (C) an entity whose underlying assets include "plan assets" within the meaning of ERISA by reason of the investments by such plans or accounts or arrangements therein.

8. Covenants of the Company. The Company covenants that:

8.1. Rights Offering. The Company shall use commercially reasonable efforts to commence the Rights Offering as promptly as practicable following the date of this Agreement.

8.2. Use of Proceeds. The Company will use the net proceeds from the sale of the Preferred Shares for general corporate purposes.

8.3. Stockholder Approval. The Company shall use commercially reasonable efforts to commence a stockholder vote for Stockholder Approval as promptly as practicable following the completion of the Rights Offering.

8.4. Stockholder Agreements. To the extent that the Company is party to any agreement with a stockholder of the Company that obligates such stockholder to vote its shares of Common Stock in accordance with the recommendation of the Board, the Company shall use commercially reasonable efforts to cause such stockholder to abide by, and, if necessary, enforce the Company's rights under, such agreement in connection with the Stockholder Approval.

9. Covenants of the Purchaser. The Purchaser covenants that:

9.1. Compliance with Laws. The Purchaser shall comply with all filing and other reporting obligations under all Requirements of Law.

9.2. Restrictive Legends.

9.2.1. Each certificate evidencing the Preferred Shares and Common Stock issued upon conversion of any Preferred Shares shall contain a legend in substantially the following form:

9.2.1.1. "THE SECURITIES REPRESENTED BY THIS CERTIFICATE HAVE NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933,

AS AMENDED (THE "SECURITIES ACT"), OR ANY STATE "BLUE SKY" LAWS, AND MAY NOT BE SOLD OR TRANSFERRED IN THE ABSENCE OF AN EFFECTIVE REGISTRATION STATEMENT UNDER THE SECURITIES ACT OR SUCH STATE LAWS OR AN EXEMPTION FROM REGISTRATION THEREUNDER.

9.2.1.2. THE SECURITIES REPRESENTED BY THIS CERTIFICATE ARE SUBJECT TO THE LIMITATIONS CONTAINED IN THE CERTIFICATE OF DESIGNATIONS, DATED AS OF MARCH [•], 2024, FILED BY INNOVATE CORP. WITH THE SECRETARY OF STATE OF THE STATE OF DELAWARE, AND SUCH SECURITIES AND ANY SHARES OF COMMON STOCK ISSUED UPON CONVERSION OF ANY SUCH SECURITIES MAY BE TRANSFERRED ONLY IN COMPLIANCE WITH THE CONDITIONS CONTAINED THEREIN AND IN THE INVESTMENT AGREEMENT, DATED AS OF MARCH 5, 2024, BETWEEN INNOVATE CORP. AND LANCER CAPITAL LLC (THE "INVESTMENT AGREEMENT"), AND ARE OTHERWISE SUBJECT TO THE LIMITATIONS CONTAINED IN SUCH INVESTMENT AGREEMENT."

9.3. Acquisition of Third-Party Rights. Purchaser shall not purchase or otherwise acquire any Rights issued by the Company in the Rights Offering to any other stockholder.

9.4. Standstill.

9.4.1. During the period from the date of this Agreement until the 90th day after the closing of the Rights Offering (the "Standstill Period"), the Purchaser shall not, and shall cause its Affiliates and Associates not to, directly or indirectly, alone or acting in concert, but expressly subject, in each case, to the provisions of Section 9.4.2 below:

9.4.1.1. beneficially own or acquire, or offer, seek or agree to acquire, by purchase or otherwise (A) more than that percentage of the then-outstanding shares of Common Stock beneficially owned by the Purchaser immediately following the closing of Rights Offering (including any securities convertible or exchangeable into or exercisable for Common Stock), (B) any common stock or any securities convertible or exchangeable into or exercisable for shares of common stock of any of the Company's Subsidiaries or (C) debt securities or indebtedness of the Company or its Subsidiaries (such securities referenced in subclauses (A), (B) and (C), collectively, "Company Securities") or assets of the Company or its Subsidiaries, or rights or options to acquire any Company Securities in excess of the foregoing limit in clause (A) above, or engage in any swap instrument or derivative hedging transactions or other derivative agreements of any nature with respect to Company Securities;

9.4.1.2. agree, attempt, seek or propose to sell or transfer to a third party, in one transaction or series of related transactions, an amount of Common Stock and/or Preferred Shares, on an aggregate basis assuming that the Preferred Shares were

converted to shares of Common Stock issuable upon conversion of such Preferred Shares, exceeding 9.9% of the outstanding shares of Common Stock, unless such third party (and any subsequent acquiror of such amount of Common Stock) agrees to be bound by the terms of this Section 9.4.1 as if such third party was a party hereto;

9.4.1.3. engage in any short sale, purchase or acquisition of any derivative security, including any purchase, acquisition, sale or grant of any option, warrant, convertible security, stock appreciation right, or other similar right (including any put or call option or "swap" transaction with respect to any security (other than a broad-based market basket or index)) or entering into any derivative or other agreement, arrangement or understanding that hedges or transfers, in whole or in part, any securities that includes, relates to or derives any material part of its value from the price or value (including fluctuations thereof) of the Company Securities;

9.4.1.4. engage in a "solicitation" of "proxies" (as such terms are defined under the Exchange Act), votes or written consents of stockholders or security holders with respect to, or from the holders of, the Company Securities (including a "withhold" or similar campaign), for any purpose, including the election or appointment of individuals to the Board or to approve or vote in favor or against stockholder proposals, resolutions or motions, or become a "participant" (as such term is defined in Instruction 3 to Item 4 of Schedule 14A promulgated under the Exchange Act) in any contested "solicitation" of proxies, votes or written consents for any purpose, including the election or appointment of directors with respect to the Company (as such terms are defined under the Exchange Act);

9.4.1.5. form, join, act in concert with or in any way participate in any "group" (within the meaning of Section 13(d)(3) of the Exchange Act) with respect to the Company Securities (other than a "group" that includes all or some of the persons or entities identified in the Purchaser's Schedule 13D, filed with the SEC on April 23, 2020, as amended by Amendment No. 1, filed with the SEC on May 15, 2020; Amendment No. 2, filed with the SEC on June 8, 202; Amendment No. 3, filed with the SEC on June 17, 2020; Amendment No. 4, filed with the SEC on September 10, 2021; Amendment No. 5, filed with the SEC on November 30, 2021; Amendment No. 6, filed with the SEC on December 4, 2020; Amendment No. 7, filed with the SEC on March 18, 2021; Amendment No. 8, filed with the SEC on April 27, 2021; Amendment No. 9, filed with the SEC on July 7, 2021; Amendment No. 10, filed with the SEC on May 20, 2022; and Amendment No. 11, filed with the SEC on May 27, 2022), provided, however, that nothing herein shall limit the ability of an Affiliate, a family member and an estate planning vehicle formed for any of the foregoing, of the Purchaser to join a "group" with such parties, as applicable, following the execution of this Agreement, so long as any such Affiliate first agrees to be bound by the terms and conditions of this Agreement;

9.4.1.6. agree, attempt, seek or propose to deposit any Company Securities in any voting trust or similar arrangement or subject any Company Securities to any arrangement or agreement with respect to the voting of any Company Securities, other than any such voting trust, arrangement or agreement solely among the Purchaser and its Affiliates or Associates and otherwise in accordance with this Agreement;

9.4.1.7. seek or submit, or knowingly encourage any person or entity to seek or submit, nomination(s) in furtherance of a "contested solicitation" for the appointment, election or removal of directors with respect to the Company or any of its Subsidiaries or seek, or knowingly encourage or take any other action with respect to the appointment, election or removal of any directors, in each case in opposition to the recommendation of the Board or the boards of the Company's Subsidiaries, as applicable;

9.4.1.8. (A) present or make to the stockholders of the Company or its Subsidiaries, or knowingly encourage any person to present or make to the stockholders of the Company or its Subsidiaries, any proposal or other matter for consideration by stockholders at any annual or special meeting of stockholders of the Company or its Subsidiaries or through action by written consent, (B) make any offer or proposal to the Company or its Subsidiaries (with or without conditions) with respect to any merger, tender (or exchange) offer, acquisition, recapitalization, restructuring, disposition or business combination involving the Company or any of its Subsidiaries, (C) affirmatively solicit a third party to make any public or private offer or proposal (with or without conditions) with respect to any merger, tender (or exchange) offer, acquisition, recapitalization, restructuring, disposition or other business combination involving the Company or any of its Subsidiaries, or encourage, initiate or support any third party in making such an offer or proposal, (D) publicly comment on any third party proposal regarding any merger, tender (or exchange) offer, acquisition, recapitalization, restructuring, disposition, or business combination with respect to the Company or any of its Subsidiaries by such third party prior to such proposal becoming public, (E) call, seek to call or request that (or knowingly encourage any person to request that) the Company or its Subsidiaries call a special meeting of stockholders or (F) make any private proposal to the Company or its Subsidiaries that would reasonably be expected to require the Company, its Subsidiaries or the Purchaser to make public disclosure of any kind;

9.4.1.9. make any public disclosure, communication, announcement or statement regarding any intent, purpose, plan, or proposal with respect to (A) controlling, changing or influencing the Board or any board of directors of the Company's Subsidiaries, including any public disclosure, communication, announcement or statement regarding any intent, purpose, plan, or proposal relating to any change in the number of directors or the filling of any vacancies on the Board, (B) any material change in the capitalization, dividend policy, share repurchase programs

and practices or capital allocation programs and practices of the Company or any of its Subsidiaries, (C) relating to any material change in the Company's or its Subsidiaries' management, compensation or corporate structure, (D) relating to any waiver, amendment or modification to the Company's Charter or By-Laws, (E) causing any securities of the Company to be delisted or (F) causing any equity securities of the Company to become eligible for termination of registration;

9.4.1.10. seek, alone or in concert with others, representation on the Board, except that Avram A. Glazer may serve as a director of the Board, including as Chairman;

9.4.1.11. advise, knowingly encourage, knowingly support or knowingly influence any person or entity, in the Purchaser's capacity as a stockholder of the Company, with respect to the voting or disposition of any securities of the Company at any annual or special meeting of stockholders with respect to the appointment, election or removal of any director(s);

9.4.1.12. make any request for stockholder list materials or any other books and records of the Company, whether under Section 220 of the Delaware General Corporation Law or otherwise;

9.4.1.13. institute, solicit, assist or join, as a party, any litigation, arbitration or other proceeding against or involving the Company or its Subsidiaries or any of its or their current or former directors or officers (including derivative actions) in order to effect or take any of the actions expressly prohibited by this Section 9.4.1; provided, however, that for the avoidance of doubt the foregoing shall not prevent the Purchaser and its Affiliates or Associates from (A) bringing litigation to enforce the provisions of this Agreement, (B) making counterclaims with respect to any proceeding initiated by, or on behalf of, the Company against the Purchaser, its Affiliates or Associates, (C) bringing bona fide commercial disputes that do not relate to the subject matter of this Agreement, (D) complying with a validly issued legal or regulatory process or (E) exercising statutory appraisal, dissenters or similar rights under applicable law;

9.4.1.14. make any request or submit any proposal to amend the terms of this Agreement other than through private communications with the Company or the Board that would not reasonably be expected to require the Company or the Purchaser to make public disclosure of any kind;

9.4.1.15. enter into any negotiations, arrangements, discussions, agreements or understandings with (whether written or oral), or advise, facilitate, finance (through equity, debt or otherwise), assist, solicit, encourage or seek to persuade, any third party to take or cause any action or make any statements inconsistent with any of the foregoing, or make any investment in or enter into any arrangement with any other person that engages, or offers or proposes to engage,

in any of the foregoing, or otherwise take or cause any action or make any statements inconsistent with any of the foregoing; or

9.4.1.16. disclose any intention, plan or arrangement inconsistent with the provisions of this Section 9.4.1.

9.4.2. Notwithstanding the foregoing, nothing in this Agreement shall prohibit or restrict the Purchaser from: (A) communicating privately with the Board or any of the Company's officers regarding any matter in a manner that does not otherwise violate this Section 9.4.1, so long as such communications are not intended to, and would not reasonably be expected to, require any public disclosure of such communications, (B) communicating privately with stockholders of the Company and others in a manner that does not otherwise violate this Section 9.4.1, (C) taking any action necessary to comply with any law, rule or regulation or any action required by any governmental or regulatory authority or stock exchange that has, or may have, jurisdiction over the Purchaser or any of its respective Affiliates or Associates; provided that a breach by the Purchaser of this Agreement is not the cause of the applicable requirement, or (D) fulfilling any obligation or exercising any right of the Purchaser under this Agreement. Furthermore, nothing in this Agreement shall be deemed to restrict in any way the ability of Mr. Glazer, acting in his capacity as a director of the Company, from exercising any of his rights, powers and privileges as a director, from fulfilling his statutory and fiduciary duties as a director, or otherwise exercising his authority as a director pursuant to the Delaware General Corporation Law, the Charter, the By-Laws and/or any resolution of the Board or a committee thereof.

9.4.3. Purchaser shall be responsible for any breach of this Section 9.4.1 by any of its Affiliates or Associates.

9.4.4. Purchaser agrees that the Board or any committee thereof, solely to fulfill the discharge of its fiduciary duties upon the advice of its legal counsel, may recuse Mr. Glazer by majority vote of the members of the Board (but excluding the applicable director) from the portion of any Board or committee meeting at which the Board or any such committee is evaluating and/or taking action with respect to and after the right of the recused director to be present prior to recusal (A) the exercise of any of the Company's rights or enforcement of any of the obligations under this Agreement and (B) any transaction proposed by, or with, the Purchaser or its Affiliates or Associates, as long as all other similarly situated directors are similarly recused. The Board or such committee, as applicable, may withhold from Mr. Glazer any material distributed to the directors to the extent directly relating to the subject of that recusal.

10. Registration and Transfer of Preferred Shares.

10.1. Stock Register; Ownership of Preferred Shares.

10.1.1. The Company will keep at its principal office a register in which the Company will provide for the registration of transfers or conversion of the Preferred Shares. The

Company may treat the Person in whose name any of the Preferred Shares or shares issued upon conversion of any such Preferred Shares are registered on such register as the owner thereof and the Company shall not be affected by any notice to the contrary. All references in this Agreement to a "holder" of any Preferred Shares or shares issued upon conversion of any such Preferred Shares shall mean the Person in whose name such Preferred Shares or shares issued upon conversion of any such Preferred Shares are at the time registered on such register.

10.1.2. Upon the surrender of any certificate evidencing Preferred Shares, if certificated, properly endorsed, for registration of transfer or for conversion at the office of the Company maintained pursuant to Section 10.1.1, the Company at its expense may execute and deliver to or upon the order of the holder thereof, if certificated, (i) a new certificate or certificates for the same aggregate number of shares of Preferred Shares less the number of Preferred Shares being converted, if any, in the name of such holder or as such holder (upon payment by such holder of any applicable transfer taxes and similar taxes) may direct, and (ii) a certificate or certificates evidencing the number of shares of Common Stock to be issued upon conversion of the Preferred Shares so surrendered.

10.2. Replacement of Certificates. Upon receipt of evidence reasonably satisfactory to the Company of the loss, theft, destruction or mutilation of any certificate representing the Preferred Shares, in the case of any such loss, theft or destruction, upon delivery of indemnity and/or security reasonably satisfactory to the Company in form and amount or, in the case of any such mutilation, upon surrender of such certificate for cancellation at the office of the Company maintained pursuant to Section 10.1.1, the Company at its expense will execute and deliver, in lieu thereof, a new certificate representing Preferred Shares of like tenor.

10.3. Transfer Restrictions. Prior to any transfer of any Restricted Securities which is not the subject of an effective registration statement under the Securities Act and in accordance with the plan of distribution described in such registration statement, the holder thereof will give written notice to the Company of such holder's intention to effect such transfer and to comply in all other respects with this Section 10.3. Each such notice shall describe the manner and circumstances of the proposed transfer. If within five (5) Business Days after receipt by the Company of such notice, the Company requests an opinion of counsel for such holder that the proposed transfer may be effected without registration of such Restricted Securities under the Securities Act, then the Company shall not be required to register such transfer, and the Purchaser shall not be entitled to effect such transfer, unless and until the Company receives such an opinion (which counsel and opinion shall each be reasonably satisfactory to the Company). Such holder shall thereupon be entitled to transfer such shares in accordance with the terms of the notice delivered by such holder to the Company. Each certificate representing such shares issued upon or in connection with such transfer shall bear the restrictive legends required by Section 9.2. At the time of any such transfer, each transferee shall deliver to the Company a valid completed Internal Revenue Service Form W-9 from the transferee.

11. Definitions.

11.1. Certain Defined Terms. As used in this Agreement the following terms have the following respective meanings:

acting in concert: A Person shall be deemed to be "acting in concert" with another Person if such Person knowingly acts (whether or not pursuant to an express agreement, arrangement or understanding (whether or not in writing)) in concert with, or towards a common goal relating to, changing or influencing the control of the Company or in connection with or as a participant in any transaction having that purpose or effect, in parallel with such other Person where (i) each Person is conscious of the other Person's conduct and this awareness is an element in their decision-making processes and (ii) at least one additional factor supports a determination by the Board that such Persons intended to act in concert or in parallel, which such additional factors may include exchanging information, attending meetings, conducting discussions, or making or soliciting invitations to act in concert or in parallel. A Person who or which is acting in concert with another Person shall also be deemed to be acting in concert with any third party who is also acting in concert with such other Person.

Affiliate and *Associate*: Respective meanings set forth in Rule 12b-2 promulgated by the SEC under the Exchange Act and shall include all Persons or entities that at any time during the Standstill Period become Affiliates or Associates of any Person or entity referred to in this Agreement.

Agreement: As defined in the introduction to this Agreement.

beneficial owner, *beneficial ownership* and *beneficially own*: A Person shall be deemed the "beneficial owner" of, have "beneficial ownership" of and to "beneficially own" any Company Securities, including all of the shares of Common Stock issuable upon conversion of (x) the Preferred Shares held by the Purchaser and/or its Affiliates and/or Associates, irrespective of whether the Preferred Shares is at such time currently convertible, and (y) any convertible senior notes or similar securities held by the Purchaser and/or its Affiliates and/or Associates:

(a) which such Person or any of such Person's Affiliates or Associates, directly or indirectly, owns or has the right to acquire (whether such right is exercisable immediately or only after the passage of time or upon the satisfaction of one or more conditions (whether or not within the control of such Person) or upon compliance with regulatory requirements, stock exchange rules and regulations or otherwise) pursuant to any agreement, arrangement or understanding (whether or not in writing), or upon the exercise of conversion rights, exchange rights, other rights, warrants or options, or otherwise;

(b) which such Person or any of such Person's Affiliates or Associates, directly or indirectly, has the right to vote or dispose of or is the beneficial owner of, beneficially owns or has beneficial ownership of (as determined pursuant to Rule 13d-3 of the General Rules and Regulations under the Exchange Act), including pursuant to any agreement, arrangement or understanding, whether or not in writing;

(c) which are beneficially owned, directly or indirectly, by any other Person (or any Affiliate or Associate thereof) and with respect to which such Person (or any of such Person's Affiliates or Associates) has any agreement, arrangement or understanding (whether or not in writing) (other than customary agreements with and between underwriters and selling group members with respect to a bona fide public offering of securities), for the purpose of acquiring, holding, voting or disposing of any voting securities of the Company; or

(d) which are the subject of a derivative transaction entered into by such Person (or any of such Person's Affiliates or Associates), including, for these purposes, any derivative instrument (whether or not presently exercisable) acquired by such Person (or any of such Person's Affiliates or Associates), that gives such Person (or any of such Person's Affiliates or Associates) the economic equivalent of direct or indirect ownership of, or opportunity to obtain ownership of, an amount of such securities where the value of the derivative is determined in whole or in part with reference to, or derived in whole or in part from, the price or value of such securities, or which provides such Person (or any of such Person's Affiliates or Associates) an opportunity, directly or indirectly, to profit, or to share in any profit, derived from any change in the value of such securities, in any case without regard to whether (i) such derivative conveys any voting rights in such securities to such Person (or any Affiliate or Associate thereof), (ii) the derivative is required to be, or capable of being, settled through delivery of such securities, or (iii) such Person (or any of such Person's Affiliates or Associates) may have entered into other transactions that hedge the economic effect of such derivative. In determining the number of shares of Common Stock the subject Person shall be deemed the beneficial owner of, to beneficially own or to have beneficial ownership of by virtue of the operation of this Section 11.1(d), the subject Person shall be deemed to beneficially own (without duplication) the notional or other number of shares of Common Stock specified in the documentation evidencing the derivative position as being subject to be acquired upon the exercise or settlement of the applicable right or as the basis upon which the value or settlement amount of such right, or the opportunity of the holder of such right to profit or share in any profit, is to be calculated in whole or in part, and in any case (or if no such number of shares of Common Stock is specified in such documentation or otherwise), as determined by the Board in good faith to be the number of shares of Common Stock to which the derivative position relates.

Back-stop Arrangement: As defined in Section 2 of this Agreement.

Back-stop Closing: As defined in Section 3.1 of this Agreement.

Back-stop Shares: As defined in Section 2 of this Agreement.

Board: The Board of Directors of the Company.

Business Day: Any day except a Saturday, a Sunday, or any day on which banking institutions in New York, New York are required or authorized by law or other governmental action to be closed.

By-Laws: The Company's Fourth Amended and Restated By-Laws, as further amended or amended and restated from time to time.

Capital Stock: As to any Person, any and all shares of stock of a corporation, partnership interests or other equivalent interests (however designated, whether voting or nonvoting) in such Person's equity, entitling the holder to receive a share of the profits and losses, and a distribution of assets, after liabilities, of such Person.

Certificate of Designations: As defined in Section 1 of this Agreement.

Code: The Internal Revenue Code of 1986, as amended, and any successor statute (together with all rules and regulations promulgated thereunder).

Common Stock: As defined in Section 1 of this Agreement.

Company: As defined in the introduction to this Agreement.

Company Securities: As defined in Section 9.4.1.1 of this Agreement.

Equity Commitment Amount: As defined in the introduction to this Agreement.

ERISA: As defined in Section 7.12 of this Agreement.

Exchange Act: The Securities Exchange Act of 1934, as amended.

Governmental Authority: Any nation or government, any state or other political subdivision thereof and any entity exercising executive, legislative, judicial, regulatory or administrative functions of or pertaining to government.

IRA: As defined in Section 7.12 of this Agreement.

Material Adverse Effect: A material adverse effect on the properties, business, results of operations or financial condition of the Company and its Subsidiaries, taken as a whole.

NYSE: As defined in Section 3.4 of this Agreement.

Person: An individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated organization or a government or any department or agency thereof.

Preferred Shares: As defined in Section 1 of this Agreement.

Private Placement Shares: As defined in Section 2(a) of this Agreement.

Purchaser: As defined in the introduction to this Agreement.

Registration Rights Agreement: As defined in Section 4.3 of this Agreement.

Registration Statement: As defined in Section 5.2 of this Agreement.

Requirements of Law: As to any Person, the certificate of incorporation and bylaws or other organizational or governing documents of such Person, and any law, treaty, rule or

regulation, or determination of an arbitrator or a court or other Governmental Authority, in each case applicable to or binding upon such Person or any of its property or to which such Person or any of its property is subject.

Restricted Securities: All of the following: (a) any certificates for Preferred Shares bearing the legends referred to in Section 8.2 hereof, (b) any shares of Common Stock which have been issued upon the conversion of any of the Preferred Shares which bear the legends referred to in such section and (c) unless the context otherwise requires, any shares of Common Stock which are at the time issuable upon the conversion of Preferred Shares and which, when so issued, will bear the legends referred to in such section.

Rights: The subscription rights distributed in the Rights Offering.

Rights Offering: The Company's proposed rights offering, pursuant to which the Company proposes to distribute pro rata, based on their ownership of outstanding shares of Common Stock and existing preferred stock that are entitled to participate in dividend distributions to holders of Common Stock, to all of its common stockholders and certain preferred stock holders transferable subscription rights to purchase shares of Common Stock for an aggregate purchase price of up to $19,000,000.

Rights Offering Amount: As defined in the introduction to this Agreement.

SEC: The U.S. Securities and Exchange Commission, or any other federal agency at the time administering the Securities Act or the Exchange Act, whichever is the relevant statute for the particular purpose.

SEC Documents: As defined in Section 5.6 of this Agreement.

Securities Act: The Securities Act of 1933, as amended.

Standstill Period: As defined in Section 9.4.1 of this Agreement.

Stockholder Approval: As defined in Section 2 of the Certificate of Designations.

Subsidiary: As to any Person, any corporation, association or other business entity of which more than 50% of the outstanding Voting Stock is owned, directly or indirectly, by, or, in the case of a partnership, the sole general partner or the managing partner or the only general partners of which are, such Person and one or more Subsidiaries of such Person (or a combination thereof).

Voting Stock: As to any Person, Capital Stock of any class or kind ordinarily having the power to vote for the election of directors, managers or other voting members of the governing body of such Person.

Any of the above-defined terms may, unless the context otherwise requires, be used in the singular or plural depending on the reference.

12. Survival of Representations and Warranties and Indemnification; Certain Limitations. The representations and warranties of the Company and the Purchaser contained in or made pursuant to this Agreement shall terminate upon the earlier of (i) the date that is six (6) months following the date hereof and (ii) the consummation of the Rights Offering. No written (except as explicitly stated therein) or oral statements made by or on behalf of the Company, other than in this Agreement and the Registration Rights Agreement, shall constitute representations or warranties.

13. Amendments and Waivers. Any term of this Agreement may be amended or modified and the observance of any term of this Agreement may be waived (either generally or in a particular instance and either retroactively or prospectively) only with the written consent of the Company and the Purchaser.

14. Notices, etc. All notices and other communications given or made pursuant to this Agreement shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the party to be notified, (b) when sent, if sent by electronic mail or facsimile, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) Business Day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent (a) if to the Purchaser, to the address set forth at the beginning of this Agreement (or at such other address or e-mail address as the Purchaser shall have furnished to the Company in writing), or (b) if to any other holder of any Preferred Shares or shares of Common Stock into which any of the Preferred Shares have been converted, to such address (or e-mail address) as such other holder shall have furnished to the Company in writing, or, until any such other holder so furnishes to the Company an address (or e-mail address), then to and at the address (or e-mail address) of the last holder of such Preferred Shares or shares of Common Stock into which such Preferred Shares have been converted who has furnished an address (or e-mail address) to the Company, or (c) if to the Company, to 222 Lakeview Avenue, Suite 1660, West Palm Beach, Florida 33401, to the attention of its Chief Executive Officer, or at such other address or e-mail, or to the attention of such other officer, as the Company shall have furnished to the Purchaser and each such other holder in writing, with a copy to the attention of Gregory W. Gribben, Esq. at the following address: Woods Oviatt Gilman, LLP, 1900 Bausch & Lomb Place, Rochester, New York 14604.

15. Construction.

15.1. As used in this Agreement (i) the term “including” means “including, without limitation”; (ii) words of one gender shall be held to include the other genders as the context requires; (iii) the words “hereof,” “herein,” “hereby,” “hereto” and “herewith” and words of similar import shall, unless the context otherwise states or requires, refer to this Agreement as a whole and not to any particular provision of this Agreement, and all references to the introduction, Sections or Exhibits, unless the context otherwise states or requires, are to the introduction, Sections or Exhibits of, or to, this Agreement; (iv) the word “or” shall not be exclusive; and (v) the words “date hereof” shall mean the date of this Agreement.

15.2. Purchaser and the Company have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Purchaser and the Company and no presumption or burden of proof shall arise favoring or disfavoring either party by virtue of the authorship of any provisions of this Agreement.

16. Publicity; Confidentiality. Except as may be required by applicable law, rule or regulation or legal or administrative process, the Purchaser shall not issue a press release or public announcement or otherwise make any disclosure concerning this Agreement or the transactions contemplated hereby, without prior written consent of the Company. If any announcement is required by any law, rule or regulation or legal or administrative process to be made by the Purchaser, prior to making such announcement or disclosure, Purchaser, to the extent reasonably practicable, shall deliver a draft of such announcement to the Company and shall give the Company reasonable opportunity to comment thereon. The Purchaser acknowledges and agrees that the Company may (i) disclose the terms and provisions of this Agreement in, and/or file this Agreement as an exhibit to, the Registration Statement without the Purchaser's consent and (ii) publish, make, repeat or otherwise use any statement previously consented to by the Purchaser unless and until the Purchaser objects in writing to the use thereof.

17. Miscellaneous. This Agreement shall be binding upon and inure to the benefit of and be enforceable by the respective successors and permitted assigns of the parties hereto. Neither party hereto may assign any of its rights or obligations hereunder without the prior written consent of the other party. This Agreement shall not inure to the benefit of any other third party. This Agreement embodies the entire agreement and understanding between the Purchaser and the Company and supersedes all prior agreements and understandings relating to the subject matter hereof. This Agreement shall be construed and enforced in accordance with and governed by the laws of the State of New York without regard to the principles regarding conflicts of laws. The headings in this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof. This Agreement may be executed in counterparts, each of which shall be an original, but both of which together shall constitute one instrument.

If the Purchaser is in agreement with the foregoing, please sign this letter and the accompanying counterpart and return one of the same to the Company, whereupon this letter shall become a binding agreement between the Purchaser and the Company.

[*Signature Pages Follow*]

Very truly yours,

INNOVATE Corp.

By: */s/ Michael J. Sena*

Name: Michael J. Sena

Title: Chief Financial Officer

The foregoing Agreement is hereby agreed to as of the date first written above.

LANCER CAPITAL LLC

By: */s/ Avram A. Glazer*
Name: Avram A. Glazer
Title: Sole Member

Exhibit A

CERTIFICATE OF DESIGNATIONS

See attached

Exhibit B

REGISTRATION RIGHTS AGREEMENT

See attached

CERTIFICATE OF DESIGNATIONS
OF
SERIES C NON-VOTING PARTICIPATING CONVERTIBLE PREFERRED STOCK
OF
INNOVATE CORP.

The undersigned, Paul K. Voigt, the Interim Chief Executive Officer of INNOVATE Corp. (including any successor in interest, the "Company"), a corporation organized and existing under the General Corporation Law of the State of Delaware (the "DGCL"), does hereby certify, in accordance with Sections 103 and 151 of the DGCL, that the following resolutions were duly adopted by its Board of Directors (the "Board") on March 5, 2024:

WHEREAS, the Company's Second Amended and Restated Certificate of Incorporation, as amended (the "Certificate of Incorporation"), authorizes 20,000,000 shares of preferred stock, par value $0.001 per share (the "Preferred Stock"), issuable from time to time in one or more series;

WHEREAS, the Certificate of Incorporation authorizes the Board to provide by resolution for the issuance of the shares of Preferred Stock in one or more series, the number of shares in each series, the voting powers, if any, and such designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof;

WHEREAS, the Board desires, pursuant to its authority as aforesaid, to designate a new series of Preferred Stock, set the number of shares constituting such series, and the designations, preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions thereof.

NOW, THEREFORE, BE IT RESOLVED, that the Board hereby designates a new series of Preferred Stock, which shall be designated as the "Series C Non-Voting Participating Convertible Preferred Stock" (the "Series C Preferred Stock") consisting of 35,000 shares, having the preferences and relative, participating, optional or other special rights, and the qualifications, limitations and restrictions relating to such series as follows (certain capitalized terms used herein are defined in Section 12 hereof):

1. Dividends.

(a) The holders of shares of the Series C Preferred Stock shall be entitled to receive, when, as and if dividends are declared by the Board out of funds of the Company legally available therefor, if such shares of Series C Preferred Stock are held of record at the close of business on any record date (each, a "Record Date") with respect to payment of dividends on the Common Stock, the amount of dividends as set forth below. The amount of dividends payable in respect of each share of Series C Preferred Stock shall be equal to the result obtained by multiplying (a) the number of shares (including fractions) of Common Stock into which such share of Series C Preferred Stock is (or, but for the failure to obtain the Stockholder Approval, would be) convertible on the Record Date by (b) the amount of dividends declared and paid on each share of Common Stock; provided, however, that if the Company declares and pays a dividend on the Common Stock consisting in whole or in part of Common Stock, then no such dividend shall be payable in respect of the Series C Preferred Stock on account of the portion of such dividend on the Common Stock

payable in Common Stock and in lieu thereof the anti-dilution adjustment in Section 3(a) below shall apply. No dividend shall be paid or declared on any share of Common Stock (other than dividends payable in Common Stock), unless a dividend, payable in the same consideration and manner, is simultaneously paid or declared, as the case may be, on each share of Series C Preferred Stock in an amount determined as set forth above. For purposes hereof, the term "dividends" shall include any pro rata distribution by the Company, out of funds of the Company legally available therefor, of cash, property, securities (including, but not limited to, rights, warrants or options) or other property or assets to the holders of the Common Stock, whether or not paid out of capital, surplus or earnings.

(b) Notwithstanding the foregoing, if dividends are declared in respect of the Common Stock that are payable in rights, options, warrants or other convertible or exchangeable securities (collectively, "Rights") that entitle the holders thereof to acquire shares of Common Stock, the dividends payable in respect of the Series C Preferred Stock shall consist of substantially identical Rights that instead are convertible into or exercisable or exchangeable for (as the case may be) shares of convertible preferred stock that have substantially identical terms and provisions (determined by the Company in good faith) as the Series C Preferred Stock (the "New Series C Preferred Stock") and the amount of such dividend payable in respect of each share of Series C Preferred Stock shall be such that the number of shares of New Series C Preferred Stock (and/or fraction(s) thereof) into which or for which such Rights are convertible, exchangeable or exercisable shall equal that number of shares of New Series C Preferred Stock which, if fully converted, would be convertible into the number of shares of Common Stock into which or for which the Rights would have been convertible, exchangeable or exercisable had such dividend been payable to the holders of the Series C Preferred Stock in accordance with paragraph (i) above without regard to this paragraph, and the Conversion Price, exercise price and/or exchange rate thereof shall be determined in a similar manner (determined by the Company in good faith).

2. Conversion Rights.

(a) Prior to the receipt of the approval of the Company's holders of Common Stock in accordance with the rules of the New York Stock Exchange (the "NYSE", and such approval, the "Stockholder Approval") of the issuance of Common Stock to holders of the Series C Preferred Stock, each holder of Series C Preferred Stock shall have the right to convert the Series C Preferred Stock held by such holder into such number of shares of Common Stock as described in the succeeding sentence up to an amount permitted by the NYSE rules prior to obtaining Stockholder Approval. The number of shares of Common Stock issuable upon conversion of each share of Series C Preferred Stock shall be equal to the result obtained by dividing (a) $1,000 by (b) the Conversion Price then in effect. Without limiting the foregoing, at any time that a merger, sale of all or substantially all of the assets of the Company or other change of control transaction with respect to the Company and a third party unaffiliated with any holder of the Series C Preferred Stock pursuant to which the Company will be delisted from the NYSE (a "Third Party Sale") has been publicly announced and is still pending, the Series C Preferred Stock will be provided the notice pursuant to Section 3(d)(iii) below and will have the opportunity to convert the Series C Preferred Stock into Common Stock prior to the consummation of any redemption and any such conversion will be subject to, and conditioned upon, the consummation of such Third Party Sale.

Any such conversion shall be deemed effective immediately prior to the consummation of such Third Party Sale.

(b) Each share of Series C Preferred Stock shall be automatically converted, in whole and not in part, upon receipt of the Stockholder Approval for the issuance of the Common Stock upon such conversion into such number of shares of Common Stock as described in Section 2(a) above, except to the extent that the issuance of such Common Stock to a holder of Series C Preferred Stock would exceed any ownership or issuance limits imposed by the applicable rules and regulations to which the Company is then subject; provided, that any such holder Series C Preferred Stock shall represent to the Company, and provide any necessary evidence requested by the Company, that such holder of Series C Preferred Stock is legally permitted to own and hold, and the Company is permitted to issue, the Common Stock issuable upon such conversion, and such ownership or issuance will not violate the rules and regulations of which the Company is then subject ("Mandatory Conversion").

(c) Following the occurrence of the stockholder vote for the Stockholder Approval, each holder of Series C Preferred Stock shall have the right to convert the Series C Preferred Stock held by such holder into such number of shares of Common Stock as described in Section 2(a) above, except to the extent that the issuance of such Common Stock to a holder of Series C Preferred Stock would exceed any ownership or issuance limits imposed by the applicable rules and regulations to which the Company is then subject, including, without limitation, the rules and regulations of the NYSE.

(d) To convert shares of Series C Preferred Stock pursuant to Section 2(a) or Section 2(c) hereof, a holder must (A) surrender the certificate or certificates (if any) evidencing such holder's shares of Series C Preferred Stock to be converted, duly endorsed in a form satisfactory to the Company, at the office of the Company or transfer agent for the Series C Preferred Stock, if any, (B) notify the Company at such office that such holder elects to convert Series C Preferred Stock and the number of shares such holder wishes to convert and (C) pay any transfer or similar tax, if required. Such notice referred to in clause (B) above shall be delivered substantially in the following form:

"NOTICE TO EXERCISE CONVERSION RIGHT

The undersigned, being a holder of the Series C Non-Voting Participating Convertible Preferred Stock of INNOVATE, Corp. (the "Series C Preferred Stock") irrevocably exercises the right to convert _____ outstanding shares of Series C Preferred Stock on, _____, ____, into shares of Common Stock of INNOVATE. Corp. in accordance with the terms of the shares of Series C Preferred Stock, and directs that the shares issuable and deliverable upon the conversion, together with any payment for fractional shares, be issued and delivered in the denominations indicated below to the registered holder hereof unless a different name has been indicated below. If shares are to be issued in the name of a person other than the undersigned, the undersigned will pay all transfer taxes and similar taxes payable with respect thereto.

The undersigned represents and warrants to INNOVATE, Corp. that the undersigned is legally permitted to own and hold, and the Company is permitted to issue, the Common Stock issuable

upon conversion of the Series C Preferred Stock, and such ownership or issuance will not violate the rules and regulations of any applicable regulators.

Dated: [At least one Business Day prior to the date fixed for conversion]

Fill in for registration of
shares of Common Stock
if to be issued otherwise
than to the registered
holder:

_____
Name

_____
Address

_____ _____
Please print name and address, (Signature)
including postal code number

Denominations: _____

(e) Shares of the Series C Preferred Stock shall be deemed to have been converted immediately prior to the close of business on the day of the surrender of such shares for conversion in accordance with the foregoing provisions following Stockholder Approval of such issuance or, and the person or persons entitled to receive the Common Stock issuable upon such conversion shall be treated for all purposes as the record holder or holders of such Common Stock at such time. As promptly as practicable on or after the conversion date, the Company shall issue to the holders of the Series C Preferred Stock a notice of the conversion specifying the number of shares of Common Stock into which such Series C Preferred Stock have been converted and shall issue and register in the name of such holder the whole number of shares of Common Stock issuable upon such conversion, together with payment in lieu of any fraction of a share, as hereinafter provided, to the person or persons entitled to receive the same. Notwithstanding the foregoing, any notice delivered by the Company in compliance with this paragraph (v) shall be conclusively presumed to have been duly given, whether or not such holder of Series C Preferred Stock actually receives such notice, and neither the failure of a holder of Series C Preferred Stock to actually receive such notice given as aforesaid nor any immaterial defect in such notice shall affect the validity of the proceedings for the conversion of the Series C Preferred Stock as set forth in this Section 2.

(f) The Company shall at all times reserve and keep available, free from pre-emptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the conversion of the Series C Preferred Stock, the full number of shares of Common Stock then issuable upon the conversion of all shares of Series C Preferred Stock then outstanding and shall

take all such action and obtain all such permits or orders as may be necessary to enable the Company lawfully to issue such Common Stock upon such conversion.

(g) No fractional shares of Common Stock shall be issued upon conversion, but, instead of any fraction of a share which would otherwise be issuable, the Company shall pay a cash adjustment in respect of such fraction in an amount equal to the Market Price of such fraction as of the close of business on the day of conversion.

(h) The Company shall not be required to pay any tax which may be payable in respect of any transfer involved in the issue and delivery of shares of Common Stock in a name other than that in which the shares of Series C Preferred Stock so converted were registered, and no such issue or delivery shall be made unless and until the person requesting such issue has paid to the Company the amount of any such tax, or has established to the satisfaction of the Company that such tax has been paid.

3. Anti-Dilution Adjustments.

(a) If the Company (i) pays a dividend or makes any other distribution on or in respect of the Common Stock payable in Common Stock, (ii) subdivides or combines its outstanding shares of Common Stock into a greater or smaller number of shares, or (iii) issues or distributes any equity securities by reclassification of its Common Stock (other than any issuance constituting a dividend in which the holders of the Series C Preferred Stock participate in accordance with Section 1 above), the Conversion Price shall be adjusted as of the opening of business on the day following the date fixed for the determination of stockholders entitled to receive such dividend or distribution or at the opening of business on the day following the day on which such subdivision, combination or reclassification becomes effective, as the case may be, so that the holders of the Series C Preferred Stock shall, upon surrender thereafter of any shares of Series C Preferred Stock for conversion, be entitled to receive the number of shares of Common Stock that such holder would have owned or have been entitled to receive after the happening of any of the events described above had such Series C Preferred Stock been converted immediately prior to the record date in the case of a dividend or distribution or the effective date in the case of a subdivision, combination or reclassification.

(b) In the case of any consolidation or merger of the Company with another entity, as a result of which shares of Common Stock shall be changed into the same or a different number of shares of the same or another class or classes of stock or securities of the Company or another entity or any other property or assets, then the holders of Series C Preferred Stock shall thereafter have the right to receive upon surrender thereafter of their shares of Series C Preferred Stock for conversion, such shares of common stock and/or securities and/or other property or assets as may be issued or payable with respect to or in exchange for the number of shares of Common Stock that would otherwise have been received by such holders had they converted the Series C Preferred Stock immediately prior to the effective date of such merger or consolidation.

(c) Upon the occurrence of any event described in paragraphs (a) or (b) above, the Company shall promptly provide notice to each holder of Series C Preferred Stock describing such event and the change in the number of shares or other assets or securities issuable upon conversion

of the Series C Preferred Stock, setting forth in reasonable detail the method of calculation thereof and the facts upon which such calculation is based.

(d) The Company shall provide notice to the holders of Series C Preferred Stock stating the proposed record or effective date, as the case may be, if:

(i) the Company takes any action which would require an adjustment pursuant to paragraphs (a) or (b) above;

(ii) the Company consolidates or merges with, or transfers all or substantially all of its assets to, another corporation, and stockholders of the Company must approve the transaction; or

(iii) there is a dissolution or liquidation of the Company.

The Company shall provide the notice at least ten (10) days before such date. However, failure to provide such notice or any defect in it shall not affect the validity of any transaction referred to in clause (i), (ii) or (iii) of this paragraph.

4. Liquidation Preference. In the event of any voluntary or involuntary liquidation, winding-up or dissolution of the Company, after there shall have been paid, or set apart for payment, to the holders of the outstanding shares of any class having preference over the Series C Preferred Stock, including the Company's outstanding Series A-3 Convertible Participating Preferred Stock and Series A-4 Convertible Participating Preferred Stock, the preferential amounts as to which they are respectively entitled, the holders of the Series C Preferred Stock shall be entitled to share ratably with the holders of the Common Stock (and all other classes and series of stock entitled to participate with the Common Stock) in the remaining assets of the Company on the basis that such holders would share if all outstanding shares of Series C Preferred Stock were then converted into Common Stock; provided, that in the event that such payment would be less than $0.001 per share of Series C Preferred Stock, the holders of the Series C Preferred Stock shall instead be entitled to receive out of the assets of the Company available for distribution to its stockholders, whether from capital, surplus or earnings, an amount per share of Series C Preferred Stock equal to $0.001 per share (or if less than $0.001 per share is available for distribution in respect of the Series C Preferred Stock, then all such remaining funds shall be distributed pro rata in respect of the Series C Preferred Stock), before any payment or distribution shall be made to the holders of the Common Stock (or any other class or series of stock entitled to participate with the Common Stock). If, upon any liquidation, winding-up or dissolution of the Company, the assets of the Company, or proceeds thereof, distributable among the holders of shares of Series C Preferred Stock or any capital stock ranking on a parity with the Series C Preferred Stock upon liquidation, winding-up or dissolution of the Company, shall be insufficient to pay in full the preferential amounts to which such stock would be entitled, then such assets, or the proceeds thereof, shall be distributable among such holders ratably in accordance with the respective amounts which would be payable on such shares if all amounts payable thereon were payable in full. For the purposes hereof, neither a consolidation nor merger of the Company with one or more other corporations, nor a sale or a transfer of all or substantially all of the assets of the Company, shall be deemed to be a liquidation, winding-up or dissolution, voluntary or involuntary, of the Company.

5. Redemption.

(a) At any time prior to conversion of the shares of Series C Preferred Stock into Common Stock, the Company may, at its option, redeem the shares of Series C Preferred Stock, in whole or in part, at a redemption price per share of Series C Preferred Stock in cash and equal to $1,000 plus 8% per annum uncompounded for the period from the issuance date to the Redemption Date (as defined below) (the "Redemption Price").

(b) The Series C Preferred Stock shall be redeemed on the sixth (6th) anniversary of the initial issuance of shares of the Series C Preferred Stock at a price per share payable in cash and equal to the Redemption Price, out of funds of the Company legally available therefor.

(c) At least 10 and not more than 60 days prior to the date fixed for any redemption (the "Redemption Date"), the Company shall provide notice to each holder of record of the Series C Preferred Stock on the record date fixed for such redemption of the Series C Preferred Stock; provided, however, that no failure to give such notice or any defect therein shall affect the validity of the procedure for the redemption of any shares of Series C Preferred Stock except as to the holder to whom the Company has failed to give notice or except as to the holder to whom notice was defective. In addition to any information required by law or by the applicable rules of the NYSE or any other exchange upon which Series C Preferred Stock may be listed or admitted to trading, such notice shall state:

(i) that such redemption is being made pursuant to the redemption provisions of Section 5(a), Section 5(b) or Section 5(c) hereof, as applicable;

(ii) the Redemption Date;

(iii) the number of shares of Series C Preferred Stock to be redeemed;

(iv) the Conversion Price then in effect;

(v) the number of shares of Common Stock to be received by such holder in exchange for such holder's shares of Series C Preferred Stock which are to be redeemed and the method of calculation thereof; and

(vi) the place or places where certificates for such shares (if any) are to be surrendered for exchange, including any procedures applicable to redemptions to be accomplished through book-entry transfers.

Upon the delivery of any such notice of redemption, the Company shall become obligated to redeem at the time of redemption specified thereon all shares called for redemption.

(d) If notice has been provided in accordance with Section 5(c) above and provided, that at all times prior to the Redemption Date specified in such notice, the Company shall reserve and keep available, free from pre-emptive rights, out of its authorized but unissued Common Stock, for the purpose of effecting the redemption of the Series C Preferred Stock, the full number of shares of Common Stock issuable upon the exchange of the Series C Preferred Stock, then, from and after the Redemption Date, said shares shall no longer be deemed to be outstanding and shall

not have the status of shares of Series C Preferred Stock. Upon surrender, in accordance with said notice, of the certificates, if any, for any shares so redeemed (properly endorsed or assigned for transfer, if the Company shall so require and the notice shall so state), such shares shall be redeemed by the Company in exchange for the applicable number of shares of Common Stock determined in accordance with Section 5(a), Section 5(b) or Section 5(c) above, as applicable. In case fewer than all the shares represented by any such certificate are redeemed, a new certificate or certificates, if any, shall be issued representing the unredeemed shares without cost to the holder thereof.

(e) Notwithstanding anything herein or in the Investment Agreement to contrary, the Company shall have no obligation (contingent or otherwise) to purchase, redeem, retire or otherwise acquire for value any shares of the Series C Preferred Stock to the extent that such purchase, redemption, retirement or acquisition would cause the Series C Preferred Stock to constitute indebtedness that is not permitted to be incurred at the time of issuance of such Series C Preferred Stock or that would not be permitted by any then outstanding preferred stock or debt instrument of the Company.

6. Voting and Consent Rights.

(a) The holders of record of shares of the Series C Preferred Stock shall have no voting rights, except as prescribed by the General Corporation Law of the State of Delaware, as set forth below in this Section 6, or as may be required by the New York Stock Exchange.

(b) The Company shall not, without the affirmative consent of the holders of a majority of the shares of Series C Preferred Stock then outstanding consenting as one class:

(i) amend or otherwise alter this Certificate of Designations (including the provisions of Section 6 hereof) in any manner, that adversely affects in any material respect the specified rights, preferences or privileges of holders of Series C Preferred Stock; provided that no (x) merger or consolidation pursuant to which the Series C Preferred Stock is converted into or exchanged for securities or assets that are the same as the holders of Series C Preferred Stock would have received had they converted such Series C Preferred Stock immediately prior thereto (whether or not Stockholder Approval was obtained) or (y) increase in the amount of Common Stock or Preferred Stock authorized under the Certificate of Incorporation, in either case, shall be deemed to have adversely affected the specified rights, preferences, or privileges of the holders of Series C Preferred Stock;

(ii) reduce the number of shares of Series C Preferred Stock;

(iii) reduce the liquidation preference or the Redemption Price;

(iv) make any share of Series C Preferred Stock payable in any form other than that stated in this Certificate of Designations;

(v) make any change in the provisions of this Certificate of Designations relating to waivers of the rights of holders of Series C Preferred Stock to receive the liquidation preference and dividends on the Series C Preferred Stock; or

(vi) make any change in the foregoing amendment and waiver provisions.

(c) The Company in its sole discretion may without the vote or consent of any holders of the Series C Preferred Stock amend or supplement this Certificate of Designations:

(i) to cure any ambiguity, defect, omission or inconsistency;

(ii) to provide for uncertificated Series C Preferred Stock in addition to or in place of certificated Series C Preferred Stock, if any; or

(iii) to make any change that would provide any additional rights or benefits to the holders of the Series C Preferred Stock or that does not adversely affect the legal rights under this Certificate of Designations of any such holder.

(d) The consent of the holders of the Series C Preferred Stock will not be required for the Company to increase or decrease the amount of authorized capital stock of any class, including any preferred stock, and such increase or decrease in the amount of such authorized capital stock shall not be deemed to affect adversely the rights, preferences, privileges or special rights of holders of shares of Series C Preferred Stock.

7. Exclusion of Other Rights. Except as may otherwise be required by law, the shares of Series C Preferred Stock shall not have any preferences and relative, participating, optional or other special rights, other than those specifically set forth in this resolution (as such resolution may be amended from time to time) and in the Certificate of Incorporation. The shares of Series C Preferred Stock shall have no preemptive rights.

8. Headings of Subdivisions. The headings of the various subdivisions hereof are for convenience of reference only and shall not affect the interpretation of any of the provisions hereof.

9. Severability of Provisions. If any preferences and relative, participating, optional and other special rights of the Series C Preferred Stock and qualifications, limitations and restrictions thereof set forth in this Certificate of Designations (as such Certificate of Designations may be amended from time to time) is invalid, unlawful or incapable of being enforced by reason of any rule of law or public policy, all other preferences and relative, participating, optional and other special rights of Series C Preferred Stock and qualifications, limitations and restrictions thereof set forth in this Certificate of Designations (as so amended) which can be given effect without the invalid, unlawful or unenforceable preferences and relative, participating, optional or other special rights of Series C Preferred Stock and qualifications, limitations and restrictions thereof shall, nevertheless, remain in full force and effect, and no preferences and relative, participating, optional or other special rights of Series C Preferred Stock and qualifications, limitations and restrictions thereof herein set forth shall be deemed dependent upon any other such preferences and relative, participating, optional or other special rights of Series C Preferred Stock and qualifications, limitations and restrictions thereof unless so expressed herein.

10. Re-issuance of Series C Preferred Stock. Shares of Series C Preferred Stock that have been issued and reacquired in any manner, including shares purchased or redeemed or

exchanged or converted, shall (upon compliance with any applicable provisions of the laws of Delaware) have the status of authorized but unissued shares of preferred stock of the Company undesignated as to series and may be designated or re-designated and issued or reissued, as the case may be, as part of any series of preferred stock of the Company; provided, that any issuance of such shares as Series C Preferred Stock must be in compliance with the terms hereof.

11. Mutilated or Missing Preferred Stock Certificates. If any of the Series C Preferred Stock certificates shall be mutilated, lost, stolen or destroyed, the Company shall issue, in exchange and in substitution for and upon cancellation of the mutilated Series C Preferred Stock certificate, or in lieu of and substitution for the Series C Preferred Stock certificate lost, stolen or destroyed, a new Series C Preferred Stock certificate of like tenor and representing an equivalent amount of shares of Series C Preferred Stock, but only upon receipt of evidence of such loss, theft or destruction of such Series C Preferred Stock certificate and security and/or indemnity, if requested, satisfactory to the Company and the transfer agent (if other than the Company).

12. Certain Definitions. As used in this Certificate of Designations, the following terms shall have the following meanings (with terms defined in the singular having comparable meanings when used in the plural and vice versa), unless the context otherwise requires:

"Business Day" means any day except a Saturday, a Sunday, or any day on which banking institutions in New York, New York are required or authorized by law or other governmental action to be closed.

"Closing Price" means, for any Trading Day, the closing bid price for the Common Stock on the NYSE or, if the Common Stock is not quoted on the NYSE, the closing bid price in the over-the-counter market as furnished by any NYSE member firm selected from time to time by the Company for that purpose.

"Commission" means the Securities and Exchange Commission.

"Common Stock" means the common stock, par value $0.001 per share, of the Company.

"Conversion Price" initially means $0.70 and shall be subject to adjustment from time to time pursuant to the terms of Section 3 hereof.

"Exchange Act" means the Securities Exchange Act of 1934, as amended.

"Investment Agreement" means the Investment Agreement, dated as of March 5, 2024, by and between the Company and Lancer Capital LLC.

"Market Price", per share of Common Stock, on any date, shall mean the previous Trading Day's Closing Price.

"Person" means any individual, corporation, partnership, joint venture, association, joint stock company, trust, limited liability company, unincorporated organization, government or any agency or political subdivision thereof or any other entity.

"Trading Day" means any day on which the NYSE or other applicable stock exchange or market is open for business.

IN WITNESS WHEREOF, the Company has caused this Certificate of Designations to be duly executed by Paul K. Voigt, Interim Chief Executive Officer of the Company, this ____ day of March, 2024.

INNOVATE Corp.

By: _____

Name: Paul K. Voigt

Title: Interim Chief Executive Officer

REGISTRATION RIGHTS AGREEMENT

between

INNOVATE Corp.

and

LANCER CAPITAL LLC

Dated as of March 5, 2024

Table of Contents

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT, dated as of March 5, 2024 (this "Agreement"), by and between INNOVATE Corp., a Delaware corporation (the "Company"), and Lancer Capital LLC, a Delaware limited liability company (the "Stockholder").

In consideration of the mutual covenants and agreements herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. Certain Definitions.

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

"Affiliate" of any Person means any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlling," "controlled by" and "under common control with") as used with respect to any Person means the possession, direct or indirect, of 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.

"Agreement" means this Registration Rights Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to this Registration Rights Agreement as the same may be in effect at the time such reference becomes operative.

"Block Trade Offering" means an Underwritten Offering demanded by one or more stockholders that is a no-roadshow "block trade" take-down off of a Shelf Registration Statement.

"Business Day" means any day, except a Saturday, Sunday or legal holiday on which banking institutions in The City of New York are authorized or obligated by law or executive order to close.

"Closing Date" and "Closing Dates" have the meanings set forth in the Investment Agreement.

"Common Stock" means common stock, par value $0.001 per share, of the Company.

"Company" has the meaning set forth in the introductory paragraph and includes any other person referred to in the second sentence of Section 10(d) hereof.

"Conversion Shares" means the shares of Common Stock issuable upon conversion of the Series C Non-Voting Participating Convertible Preferred Stock, par value $0.001 per share, issued to the Stockholder pursuant to the Investment Agreement.

"Delay Period" has the meaning set forth in Section 2 hereof.

"Effective Period" has the meaning set forth in Section 2 hereof.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"FINRA" means the Financial Industry Regulatory Authority, Inc., and any successor regulator performing comparable functions.

"Investment Agreement" means the Investment Agreement, dated March 5, 2024, by and between the Company and the Stockholder.

"NYSE" means the New York Stock Exchange.

"Other Demanding Sellers" has the meaning assigned to it in Section 3(b) hereof.

"Other Proposed Sellers" has the meaning assigned to it in Section 3(b) hereof.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, governmental entity or any other entity.

"Piggyback Notice" has the meaning set forth in Section 3(a) hereof.

"Piggyback Registration" has the meaning set forth in Section 3(a) hereof.

"Prospectus" means the prospectus or prospectuses forming a part of, or deemed to form a part of, or included in, or deemed included in, the Shelf Registration Statement filed or used pursuant to Section 2(a) hereof, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Common Stock covered by such Shelf Registration Statement and by all other amendments and supplements to the prospectus, including post-effective amendments and all material incorporated by reference in such prospectus or prospectuses.

"Registrable Common Stock" means (i) any shares of Common Stock issued as Conversion Shares and (ii) any other security into or for which the Common Stock referred to in clause (i) has been converted, substituted or exchanged pursuant to any reclassification, merger or consolidation, and any security issued or issuable with respect thereto upon any stock dividend or stock split. As to any particular Registrable Common Stock, such securities shall cease to be Registrable Common Stock when (A) a registration statement registering such securities under the Securities Act has been declared effective and such securities have been sold or otherwise disposed of pursuant to such effective registration statement, (B) such securities are sold or are otherwise transferred and the Company has delivered a new certificate or other evidence of ownership for such securities not bearing any restrictive legend and such securities may be resold without subsequent registration under the Securities Act, (C) such securities are repurchased by the Company or a subsidiary of the Company or cease to be outstanding, (D) such securities may be resold pursuant to Rule 144, whether or not any such sale has occurred or (E) such securities are transferred to a Person that is not, or at any time following such transfer ceases to be, a 100% owned (directly or indirectly) Affiliate of the Stockholder.

"Registration Expenses" has the meaning set forth in Section 6 hereof.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such rule.

"Rule 415" means Rule 415 promulgated by the SEC pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such rule.

"SEC" means the Securities and Exchange Commission and any successor agency performing comparable functions.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shelf Registration Statement" means a registration statement of the Company filed with the SEC on either (i) Form S-3 (or any successor form or other appropriate form under the Securities Act), or a prospectus supplement to an existing Form S-3, or (ii) if the Company is not permitted to file a Registration Statement on Form S-3, an evergreen registration statement on Form S-1 (or any successor form or other appropriate form under the Securities Act), in each case for an offering to be made on a continuous basis pursuant to Rule 415 covering all of the Registrable Common Stock and which may also cover any other securities of the Company.

"Shelf Underwritten Offering" has the meaning set forth in Section 2(d) hereof.

"Stockholder" has the meaning set forth in the introductory paragraph.

"Underwritten Offering" means a sale of securities of the Company to an underwriter or underwriters for reoffering to the public, including any bought deal, Block Trade Offering or other block sale to a financial institution conducted as an underwritten offering to the public.

2. Shelf Registration.

(a) Filing. Subject to Section 2(c) hereof, the Stockholder may, by written notice delivered (which notice can be delivered at any time on or after the date of this Agreement) to the Company (the "Shelf Notice"), require the Company to, at the Company's option, either (i) file with the SEC as promptly as practicable (but no later than 30 days after the date the Shelf Notice is delivered), and to use commercially reasonable efforts to cause to be declared effective by the Commission at the earliest possible date permitted under the rules and regulations of the Commission (but no later than 60 days after such filing date), a Shelf Registration Statement covering the resale of Registrable Common Stock or (ii) file with the SEC a prospectus supplement covering the resale of Registrable Common Stock, in each case relating to the offer and sale, from time to time, of all of Registrable Common Stock owned by the Stockholder in accordance with the methods of distribution set forth in the Shelf Registration Statement. Notwithstanding the foregoing, the Stockholder shall not be entitled to require the Company to file a new Shelf Registration Statement if the Company has an effective existing Resale Registration Statement containing a plan of distribution that covers the resale of the Registrable Common Stock and the

Company is permitted to include such Registrable Common Stock therein according to the limitations of such form of registration statement.

(b) Continued Effectiveness. Subject to Section 2(c) hereof, the Company will use commercially reasonable efforts to keep the Shelf Registration Statement continuously effective until the date on which all Registrable Common Stock covered by the Shelf Registration Statement (i) have been sold thereunder in accordance with the plan and method of distribution disclosed in the Prospectus included in the Shelf Registration Statement or (ii) cease to be Registrable Common Stock (such period, the "Effective Period").

(c) Suspension of Registration. Notwithstanding anything to the contrary contained in this Agreement, the Company shall be entitled in its discretion, from time to time, by providing notice to the Stockholder, to postpone the filing or the effectiveness of the Shelf Registration Statement or require the Stockholder to suspend the use of the Prospectus for sale of Registrable Common Stock under the Shelf Registration Statement for a reasonable period of time not to exceed 60 days in succession or 180 days in the aggregate in any 12 month period (a "Delay Period") if the Company's Board of Directors determines in good faith and in its reasonable judgment that it is required to disclose in the Shelf Registration Statement a financing, acquisition, corporate reorganization or other similar transaction or other material event or circumstance affecting the Company or its securities. The Stockholder agrees to suspend use of the applicable Prospectus and any free writing prospectus in connection with any sale or purchase of, or offer to sell or purchase, Registrable Common Stock, upon receipt of the notice referred to above. The Company shall immediately notify the Stockholder upon the termination or expiration of any Delay Period and thereafter, as promptly as practicable, prepare a post-effective amendment or supplement to the Shelf Registration Statement or the Prospectus, or any document incorporated therein by reference, so that, as thereafter delivered to purchasers of the Registrable Common Stock included therein, the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) Shelf Underwritten Offerings.

(i) Subject to Section 9 hereof, during the Effective Period (except during a Delay Period), the Stockholder may notify the Company in writing of its intent to sell Registrable Common Stock covered by the Shelf Registration Statement (in whole or in part) in an Underwritten Offering (a "Shelf Underwritten Offering"); provided that the Company shall not be obligated to engage an underwriter in connection any Shelf Underwritten Offering unless the amount of Registrable Common Stock to be sold by the Stockholder, together with any shares of Common Stock to be sold for the account of the Company and any other participating stockholders, equals at least 15% of the Company's total outstanding market capitalization for its Common Stock as of the date of such written notice. The Stockholder shall give written notice to the Company of such intention at least five Business Days (or at least two Business Days in connection with a Shelf Underwritten Offering that is a Block Trade Offering) prior to the date on which such Shelf Underwritten Offering is anticipated to launch, specifying the number of Registrable Common Stock for which the Stockholder is requesting registration

under this Section 2(d) and the other material terms of such Shelf Underwritten Offering to the extent known.

(ii) If any managing underwriter of a Shelf Underwritten Offering advises the Company or the Stockholder that, in its opinion, the inclusion of all the equity securities sought to be included in such registration would adversely affect the marketability of the equity securities sought to be sold pursuant thereto, then the Company shall include in the Shelf Registration Statement applicable to such Shelf Underwritten Offering only such equity securities as the Company is so advised by such underwriter can be sold without such an effect, as follows and in the following order of priority: (1) *first* all the Registrable Common Stock requested to be included in such registration by the Stockholder and (2) *second* any securities proposed to be registered for the account of the Company or any other participating stockholder with such priorities among them as may from time to time be determined or agreed to by the Company.

(iii) The Stockholder shall be permitted to withdraw all or part of its Registrable Common Stock from a Shelf Underwritten Offering at any time prior to 7:00 a.m., New York City time, on the date on which the Shelf Underwritten Offering is anticipated to launch.

(e) Withdrawal Rights. The Stockholder having notified the Company to include any or all of its Registrable Common Stock in a Shelf Registration Statement under this Section 2 shall have the right to withdraw any such notice (which may not be re-made except in accordance with Section 9 hereof) with respect to any or all of the Registrable Common Stock designated by it for registration by giving written notice to such effect to the Company prior to the effective date of such Shelf Registration Statement. In the event of any such withdrawal, the Company shall not include such Registrable Common Stock in the applicable registration and such Registrable Common Stock shall continue to be Registrable Common Stock for all purposes of this Agreement. No such withdrawal shall affect the obligations of the Company with respect to the Registrable Common Stock not so withdrawn.

(f) "Baby Shelf Rule" Cutback. Notwithstanding anything to the contrary set forth in this Agreement, to the extent that the Company would be prohibited from registering all of the Registrable Common Stock to be included in any Shelf Registration Statement under this Section 2 by reason of Instruction I.B.6 to Form S-3, the Company shall be entitled to exclude such excess Registrable Securities from such Shelf Registration Statement.

3. Piggyback Registration.

(a) Participation. Subject to the terms and conditions hereof, whenever the Company (i) proposes to register its Common Stock under the Securities Act for its own account or for the account of others (other than a registration by the Company (x) on a registration statement on Form S-4 (or any successor form thereto) or otherwise in connection with a direct or indirect acquisition by the Company or one of its subsidiaries of another Person or a similar business combination transaction, (y) on a registration statement on Form S-8 (or any successor form thereto) or otherwise solely relating to an offering and sale to employees or directors of the Company pursuant to any employee share plan or other employee benefit plan arrangement or (z) pursuant to

Section 2 hereof) or (ii) proposes to effect an Underwritten Offering of its Common Stock pursuant to an effective Shelf Registration Statement (other than an Underwritten Offering pursuant to Section 2 hereof) (each, a "Piggyback Registration"), the Company shall give the Stockholder prompt written notice thereof (but not less than five Business Days prior to the filing by the Company with the SEC of such registration statement or launch of such Underwritten Offering; provided, that for any Block Trade Offering, two Business Days' notice shall be sufficient). Such notice (a "Piggyback Notice") shall specify the number of shares of Common Stock proposed to be included in such registration statement or Underwritten Offering, the proposed date of filing of such registration statement with the SEC or launch of such Underwritten Offering, the proposed means of distribution and the proposed managing underwriter or underwriters (if any and if known). Upon the written request of the Stockholder, given within (A) one Business Day, in the case of any Block Trade Offering, or (B) three Business Days, in the case of any other registration or offering, after such Piggyback Notice is received by the Stockholder (which written request shall specify the number of Registrable Common Stock then presently intended to be disposed of by the Stockholder), the Company, subject to the terms and conditions of this Agreement, shall use its commercially reasonable efforts to cause all such Registrable Common Stock held by the Stockholder with respect to which the Company has received such written request for inclusion to be included in such Piggyback Registration on the same terms and conditions as the Company's Common Stock being sold in such Piggyback Registration.

(b) Piggyback Priorities. If, in connection with a Piggyback Registration, any managing underwriter (or, if such Piggyback Registration is not an Underwritten Offering, a nationally recognized investment bank selected by the Company, reasonably acceptable to the Stockholder) advises the Company that, in its opinion, the inclusion of all the equity securities sought to be included in such Piggyback Registration by (i) the Company, (ii) others who have sought to have equity securities of the Company registered in such Piggyback Registration pursuant to rights to demand (other than pursuant to so-called "piggyback" or other incidental or participation registration rights) such registration (such Persons being "Other Demanding Sellers"), (iii) the Stockholder and (iv) any other proposed sellers of equity securities of the Company (such Persons being "Other Proposed Sellers"), as the case may be, would adversely affect the marketability of the equity securities sought to be sold pursuant thereto, then the Company shall include in the registration statement applicable to such Piggyback Registration only such equity securities as the Company is so advised by such underwriter or investment bank can be sold without such an effect, as follows and in the following order of priority:

(i) if the Piggyback Registration relates to an offering for the Company's own account, then (A) *first*, such number of equity securities to be sold by the Company as the Company shall have determined, (B) *second*, the Registrable Common Stock of the Stockholder and equity securities sought to be registered by each of the Other Demanding Sellers (if any), *pro rata* on the basis of the number of shares of Common Stock held by the Stockholder and the Other Demanding Sellers and (C) *third*, other equity securities held by any Other Proposed Sellers; or

(ii) if the Piggyback Registration relates to an offering other than for the Company's own account, then (A) *first*, such number of equity securities sought to be registered by each of the Other Demanding Sellers and the Stockholder (if any), *pro rata* in proportion to the number of shares of Common Stock held by all such

Other Demanding Sellers and the Stockholder and (B) *second*, other equity securities held by any Other Proposed Sellers or to be sold by the Company as determined by the Company and with such priorities among them as may from time to time be determined or agreed to by the Company.

(c) Same Underwriting Terms. In connection with any Underwritten Offering under this Section 3, the Company shall not be required to include a the Stockholder's Registrable Common Stock in the Underwritten Offering unless the Stockholder accepts the terms and conditions of the underwriting as agreed upon between the Company and the underwriters selected by the Company, with, in the case of a combined primary and secondary offering, such differences, including any with respect to representations and warranties and indemnification, as may be customary or appropriate in combined primary and secondary offerings.

(d) Delay or Withdrawal of Piggyback Registration.

(i) If, at any time after giving written notice of its intention to register any of its equity securities or sell any Common Stock in an Underwritten Offering as set forth in this Section 3 and prior to the time the registration statement filed in connection with such Piggyback Registration is declared effective or the launch date of such Underwritten Offering, the Company shall determine for any reason not to register or sell or to delay such sale or registration of such Common Stock, the Company may, at its election, give written notice of such determination to the Stockholder and thereupon (1) in the case of a determination not to sell or register, shall be relieved of its obligation to register any Registrable Common Stock in connection with such particular withdrawn or abandoned Piggyback Registration; *provided*, that Stockholders may continue the registration pursuant to the terms of Section 2 hereof and (2) in the case of a determination to delay selling or registering, shall be permitted to delay selling or registering any Registrable Common Stock, for the same period as the delay in registering such other Common Stock.

(ii) The Stockholder shall be permitted to withdraw all or part of its Registrable Common Stock from a Piggyback Registration at any time prior to the effectiveness of such registration statement or at any time prior to 7:00 a.m., New York City time, on the date on which the Underwritten Offering is anticipated to launch, as the case may be.

(e) "Baby Shelf Rule" Cutback. Notwithstanding anything to the contrary set forth in this Agreement, to the extent that the Company would be prohibited from registering all of the Registrable Common Stock to be included in any Piggyback Registration under this Section 3 by reason of Instruction I.B.6 to Form S-3, the Company shall be entitled to exclude such excess Registrable Securities from such Piggyback Registration.

4. Holdback Agreements.

If requested by the Company or any managing underwriter of an Underwritten Offering of the Company's equity securities, the Stockholder shall agree not sell or otherwise transfer or dispose of any shares of Registrable Common Stock or other security of the Company during the

period beginning on the date that is estimated by the Company in good faith to be the seventh (7th) calendar day prior to the effective date of the applicable registration statement (or the anticipated launch date in the case of a "take-down" off of an already effective Shelf Registration Statement) until the earlier of (i) such time as the Company and such lead managing underwriter shall agree and (ii) ninety calendar days after the effective date of the applicable registration statement (or the pricing date in the case of a "take-down" off of an already effective Shelf Registration Statement); provided, that any lead managing underwriter may extend such period as necessary to comply with applicable FINRA rules.

5. Registration Procedures.

(a) Company Cooperation. In connection with any registration and sale of Registrable Common Stock pursuant to Section 2 or 3 of this Agreement, during the Effective Period and subject to the provisions of such Sections, the Company shall:

(i) prepare and file with the SEC, as applicable, (A) the Shelf Registration Statement and use its reasonable best efforts to cause such Registration Statement to become effective or (B) the prospectus supplement, in each case as contemplated in Section 2(a) hereof;

(ii) prepare and file with the SEC such amendments and supplements to such Shelf Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for the Effective Period;

(iii) furnish to the Stockholder such number of copies of such Shelf Registration Statement, each amendment and supplement thereto, each Prospectus and such other documents (but not including any report or other document filed or furnished pursuant to the Exchange Act) as the Stockholder may reasonably request in order to facilitate the disposition of the Registrable Common Stock, provided, however, that the Company shall have no such obligation to furnish copies of a final prospectus if the conditions of Rule 172(c) under the Securities Act are satisfied by the Company;

(iv) furnish to counsel for the Stockholder and for the underwriters, if any, with copies of any written comments from the SEC or any state securities authority or any written request by the SEC or any state securities authority relating to the Shelf Registration Statement or related Prospectus;

(v) use its reasonable best efforts to register or qualify such Registrable Common Stock under such other securities or blue sky laws of such U.S. jurisdictions as the Stockholder reasonably requests in writing; provided, that the Company will not be required to (1) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subparagraph (iv), (2) subject itself to taxation in any such jurisdiction, (3) consent to general service of process in any such jurisdiction or (4) make any changes to any report filed or furnished pursuant to the Exchange Act that are incorporated by reference into such Registration Statement;

(vi) notify the Stockholder, at any time when a Prospectus relating thereto is required to be delivered under the Securities Act, of the occurrence of any event as a result of which any Prospectus contains an untrue statement of a material fact or omits any material fact necessary to make the statements therein not misleading, and, at the request of the Stockholder, promptly prepare and furnish to the Stockholder a reasonable number of copies of a supplement to or an amendment of such Prospectus as may be necessary so that, as thereafter delivered to the purchasers of Registrable Common Stock covered thereby, such Prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;

(vii) in connection with an Underwritten Offering, make available for inspection by the Stockholder and any underwriter participating in the Underwritten Offering, during regular business hours, all financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by the Stockholder or such underwriter, to conduct a reasonable due diligence investigation within the meaning of Section 11 of the Securities Act in connection with such Registration Statement; provided, that the foregoing investigation and information gathering shall be coordinated on behalf of such parties by one firm of counsel designated by and on behalf of the Stockholder and one firm of counsel designated by and on behalf of all of the underwriters; and provided further that each Person receiving such information shall, as a condition to receiving such information, agree in writing pursuant to confidentiality agreements in form and substance reasonably satisfactory to the Company to keep such information confidential and to take such actions as are reasonably necessary to protect the confidentiality of such information;

(viii) use its reasonable best efforts to cause all such Registrable Common Stock to be listed on the principal securities exchange on which the Common Stock is then listed; and

(ix) promptly notify the Stockholder and, in connection with an Underwritten Offering, any underwriter:

(1) when the Registration Statement, any pre-effective amendment, the Prospectus or any Prospectus supplement or post-effective amendment to the Registration Statement has been filed (but not including any report or other document filed or furnished pursuant to the Exchange Act) and, with respect to the Registration Statement or any post-effective amendment, when the same has become effective;

(2) of any written request by the SEC for amendments or supplements to the Registration Statement or any Prospectus or of any inquiry by the SEC relating to the Registration Statement;

(3) of the notification to the Company by the SEC of its initiation of any proceeding with respect to the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement; and

(4) of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Common Stock for sale under the applicable securities or blue sky laws of any jurisdiction.

(b) Stockholder Cooperation.

(i) The Stockholder shall furnish to the Company any information regarding the Stockholder and the distribution of such securities as the Company reasonably determines is required or advisable in connection with the registration of the Stockholder's Registrable Common Stock and the Company shall not have any obligation to include the Stockholder on any registration statement (or prospectus supplement to an existing Shelf Registration Statement) if such information is not promptly provided; provided, that, prior to excluding the Stockholder on the basis of its failure to provide such information, the Company shall furnish in writing a reminder to the Stockholder requesting such information at least three days prior to filing the applicable registration statement or prospectus supplement.

(ii) The Stockholder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 5(a)(vi) hereof, the Stockholder will forthwith discontinue disposition of Registrable Common Stock pursuant to the applicable registration statement and Prospectus until the Stockholder is advised in writing by the Company that the use of the Prospectus may be resumed and is furnished with a supplemented or amended Prospectus contemplated by Section 5(a)(vi) hereof and, if so directed by the Company, deliver to the Company, at the Company's expense, all copies, other than permanent file copies, then in the Stockholder's possession of the Prospectus current at the time of receipt of such notice relating to such Registrable Common Stock.

(iii) The Stockholder shall not use any free writing prospectus (as defined in Rule 405 under the Securities Act) in connection with any registration statement covering Registrable Common Stock, without the prior written consent of the Company.

(c) Underwritten Offerings Procedures.

(i) The Stockholder may not participate in any Underwritten Offering (including a Shelf Underwritten Offering requested pursuant to Section 3(a) hereof) unless it completes, executes and delivers (or causes to be delivered, as the case may be) all questionnaires, powers of attorney, indemnities, underwriting agreements, legal opinions and other documents reasonably required under the terms of such underwriting arrangements and the provisions set forth herein in respect of registration rights.

(ii) Any investment bank(s) that will serve as an underwriter with respect to any Underwritten Offering (including a Shelf Underwritten Offering requested pursuant to Section 2(d) hereof), shall be selected by the Company.

6. Registration Expenses.

(a) The Company shall pay any and all expenses incident to the Company's performance of or compliance with this Agreement, including, without limitation, all (i) registration and filing fees (including SEC registration fees and FINRA fees), (ii) fees and expenses of compliance with securities or blue sky laws, (iii) NYSE listing fees, (iv) expenses in connection with the preparation, printing, mailing and delivery of any registration statements, prospectuses and other documents in connection therewith and any amendments or supplements thereto, (v) transfer agent's and registrar's fees and expenses, (vi) fees and disbursements of counsel, accountants and other Persons retained by the Company and (vii) except as set forth in Section 6(b) hereof, all reasonable and documented out-of-pocket-expenses of the Stockholder (all such expenses, "Registration Expenses").

(b) The Stockholder shall pay all underwriting fees, discounts and commissions applicable to the sale of its Registrable Common Stock, and fees and disbursements of its counsel.

7. Indemnification.

(a) The Company agrees to indemnify and hold harmless the Stockholder, its partners, directors, officers, Affiliates and agents, and each Person who controls (within the meaning of Section 15 of the Securities Act) the Stockholder from and against any and all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation) (each, a "Liability" and collectively, "Liabilities"), arising out of or based upon any untrue, or allegedly untrue, statement of a material fact contained in any registration statement or prospectus or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading under the circumstances such statements were made, except insofar as such Liability (x) arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission contained in such registration statement or prospectus in reliance and in conformity with information furnished in writing to the Company by the Stockholder expressly for use therein, (y) arises out of or is based upon offers or sales effected by the Stockholder "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company, or (z) was caused by the Stockholder's failure to deliver or make available to the Stockholder's immediate purchaser a copy of the registration statement or prospectus or any amendments or supplements thereto (if the same was required by applicable law to be delivered or made available); provided, however, the obligations of the Company hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(b) The Stockholder agrees to indemnify and hold harmless the Company, its directors, officers, Affiliates and agents, and each Person who controls the Company (within the meaning of Section 15 of the Securities Act) to the same extent as the foregoing indemnity from the Company

to the Stockholder, but only (x) if such statement or alleged statement or omission or alleged omission was made in reliance upon and in conformity with information furnished in writing to the Company by the Stockholder expressly for use in such registration statement or prospectus or (y) for any Liability which arises out of or is based upon offers or sales by the Stockholder "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company; provided, however, that (x) the Stockholder shall not be liable hereunder for any amounts in excess of the gross proceeds received by the Stockholder pursuant to such registration, and (y) the obligations of the Stockholder hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of the Stockholder (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) permit such indemnifying party to participate in, and to the extent that it may wish, assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party shall not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably withheld, conditioned or delayed). An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim shall not be obligated to pay the fees and expenses of more than one counsel (in addition to any local counsel) for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party there may be one or more legal or equitable defenses available to such indemnified party that are in addition to or may conflict with those available to another indemnified party with respect to such claim. Failure to give prompt written notice shall not release the indemnifying party from its obligations hereunder except to the extent the indemnifying party is materially prejudiced by such failure to give notice.

(d) The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling Person of such indemnified party and shall survive the transfer of securities.

(e) If the indemnification provided for in or pursuant to this Section 7 is due in accordance with the terms hereof, but is held by a court to be unavailable or unenforceable in respect of any losses, claims, damages, liabilities or expenses referred to herein, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party on the one hand and of the indemnified party on the other in connection with the offering of the Registrable Common Stock. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions that result in such losses, claims, damages, liabilities or expenses as well as any other

relevant equitable considerations. The relative fault of the indemnifying party on the one hand and of the indemnified party on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party, and by such party's relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. In no event shall the liability of the Stockholder be greater in amount than the amount of gross proceeds received by the Stockholder upon such sale.

8. Transfer of Registration Rights.

The Stockholder may not transfer or assign all or any portion of its rights under this Agreement without the prior written consent of the Company; *provided*, that the Stockholder may assign its rights and obligations hereunder (in whole or in part) to a 100% owned (directly or indirectly) Affiliate that agrees in writing with the Company to be bound by this Agreement as fully as if it were an initial signatory hereto, and any such transferee may thereafter make corresponding assignments in accordance with this proviso but only to other 100% owned (directly or indirectly) Affiliates of the Stockholder. Any assignee permitted by the preceding sentence must remain a 100% owned (directly or indirectly) Affiliate of the Stockholder. In the event any shares of Registrable Common Stock are transferred to one or more 100% (directly or indirectly) owned Affiliates in a manner permitted by this Agreement, the Stockholder shall notify the Company in writing of a single Person that shall be the authorized representative to receive notices and take all actions on behalf of the Stockholder and/or its permitted 100% owned (directly or indirectly) Affiliate assignees.

9. Prohibitions on Requests; Stockholders' Obligations.

(a) The Stockholder shall not, without the Company's consent, be entitled to deliver a Shelf Notice or a request for a Shelf Underwritten Offering if less than 120 calendar days have elapsed since (A) the effective date of a prior registration statement in connection with a Shelf Notice or Piggyback Registration, (B) the date of withdrawal by the Stockholder of a Shelf Notice or request for a Shelf Underwritten Offering or (C) the pricing date of any Underwritten Offering effected by the Company; provided, in each case, that the Stockholder has been provided with an opportunity to participate in the prior offering and has refused or not promptly accepted such opportunity.

(b) The Stockholder shall not be entitled to sell any of its Registrable Common Stock pursuant to this Agreement, unless the Stockholder has timely furnished the Company with all information required to be disclosed in order to make the information previously furnished to the Company by the Stockholder not misleading and any other information regarding the Stockholder and the distribution of such Registrable Common Stock as the Company may from time to time request pursuant to Section 5(b)(i) hereof. Any sale of any Registrable Common Stock by the Stockholder shall constitute a representation and warranty by the Stockholder that the information of the Stockholder furnished in writing by or on behalf of the Stockholder, to the Company does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements in such information, in the light of the circumstances under which they were made, not misleading.

10. Miscellaneous.

(a) Termination. This Agreement and the obligations of the parties hereunder shall terminate upon such time as there are no Registrable Common Stock, except for the provisions of Sections 6 and 7 of this Agreement, which shall survive such termination.

(b) Notices. All notices, requests, consents and other communications required or permitted hereunder shall be in writing and shall be hand delivered or mailed postage prepaid by registered or certified mail or by facsimile transmission (with immediate telephone confirmation thereafter) and, in the case of the Stockholder, shall also be sent via e-mail,

If to the Company:

222 Lakeview Avenue, Suite 1660
West Palm Beach, Florida 33401
Attention: Chief Executive Officer

with a copy to (which shall not constitute notice):

Woods Oviatt Gilman LLP
1900 Bausch & Lomb Place
Rochester, NY 14604
Attention: Gregory W. Gribben, Esq.

If to the Stockholder:

Lancer Capital LLC
777 South Flagler Drive Suite 800W
West Palm Beach, FL 33401
Attention: Avram A. Glazer

If to a transferee Stockholder, to the address of such transferee Stockholder set forth in the transfer documentation provided to the Company;

in each case, or at such other address as such party each may specify by written notice to the others, and each such notice, request, consent and other communication shall for all purposes of the Agreement be treated as being effective or having been given when delivered personally, upon one Business Day after being deposited with a courier if delivered by courier, upon receipt of facsimile or email confirmation if transmitted by facsimile or email, as applicable, or, if sent by mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and postage prepaid as aforesaid.

(c) No Waivers. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

(d) Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(e) Governing Law. The internal laws, and not the laws of conflicts (other than Section 5-1401 of the General Obligations Law of the State of New York), of New York shall govern the enforceability and validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties.

(f) Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby may be brought in any federal or state court located in the County and State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 10(b) hereof shall be deemed effective service of process on such party.

(g) Waiver of Jury Trial. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

(h) Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts (including electronically) and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument. This Agreement shall become effective when each party hereto shall have received counterparts hereof signed by all of the other parties hereto.

(i) Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes and replaces all other prior agreements, written or oral, among the parties hereto with respect to the subject matter hereof.

(j) Captions. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any provision of this Agreement.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(l) Amendments. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given, without the written consent of the Company and the Stockholder.

[*Signature Page Follows*]

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

COMPANY:

INNOVATE Corp.

By: _____
Name: Michael J. Sena
Title: Chief Financial Officer

STOCKHOLDER:

Lancer Capital LLC

By: _____
Name: Avram A. Glazer
Title: Sole Member

REGISTRATION RIGHTS AGREEMENT

between

INNOVATE Corp.

and

LANCER CAPITAL LLC

Dated as of March 5, 2024

Table of Contents

REGISTRATION RIGHTS AGREEMENT

THIS REGISTRATION RIGHTS AGREEMENT, dated as of March 5, 2024 (this "Agreement"), by and between INNOVATE Corp., a Delaware corporation (the "Company"), and Lancer Capital LLC, a Delaware limited liability company (the "Stockholder").

In consideration of the mutual covenants and agreements herein contained and other good and valid consideration, the receipt and sufficiency of which are hereby acknowledged, the parties to this Agreement hereby agree as follows:

1. Certain Definitions.

In addition to the terms defined elsewhere in this Agreement, the following terms shall have the following meanings:

"Affiliate" of any Person means any other Person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, such Person. The term "control" (including the terms "controlling," "controlled by" and "under common control with") as used with respect to any Person means the possession, direct or indirect, of 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.

"Agreement" means this Registration Rights Agreement, including all amendments, modifications and supplements and any exhibits or schedules to any of the foregoing, and shall refer to this Registration Rights Agreement as the same may be in effect at the time such reference becomes operative.

"Block Trade Offering" means an Underwritten Offering demanded by one or more stockholders that is a no-roadshow "block trade" take-down off of a Shelf Registration Statement.

"Business Day" means any day, except a Saturday, Sunday or legal holiday on which banking institutions in The City of New York are authorized or obligated by law or executive order to close.

"Closing Date" and "Closing Dates" have the meanings set forth in the Investment Agreement.

"Common Stock" means common stock, par value $0.001 per share, of the Company.

"Company" has the meaning set forth in the introductory paragraph and includes any other person referred to in the second sentence of Section 10(d) hereof.

"Conversion Shares" means the shares of Common Stock issuable upon conversion of the Series C Non-Voting Participating Convertible Preferred Stock, par value $0.001 per share, issued to the Stockholder pursuant to the Investment Agreement.

"Delay Period" has the meaning set forth in Section 2 hereof.

"Effective Period" has the meaning set forth in Section 2 hereof.

"Exchange Act" means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

"FINRA" means the Financial Industry Regulatory Authority, Inc., and any successor regulator performing comparable functions.

"Investment Agreement" means the Investment Agreement, dated March 5, 2024, by and between the Company and the Stockholder.

"NYSE" means the New York Stock Exchange.

"Other Demanding Sellers" has the meaning assigned to it in Section 3(b) hereof.

"Other Proposed Sellers" has the meaning assigned to it in Section 3(b) hereof.

"Person" means any individual, sole proprietorship, partnership, limited liability company, joint venture, trust, unincorporated organization, association, corporation, institution, public benefit corporation, governmental entity or any other entity.

"Piggyback Notice" has the meaning set forth in Section 3(a) hereof.

"Piggyback Registration" has the meaning set forth in Section 3(a) hereof.

"Prospectus" means the prospectus or prospectuses forming a part of, or deemed to form a part of, or included in, or deemed included in, the Shelf Registration Statement filed or used pursuant to Section 2(a) hereof, as amended or supplemented by any prospectus supplement with respect to the terms of the offering of any portion of the Registrable Common Stock covered by such Shelf Registration Statement and by all other amendments and supplements to the prospectus, including post-effective amendments and all material incorporated by reference in such prospectus or prospectuses.

"Registrable Common Stock" means (i) any shares of Common Stock issued as Conversion Shares and (ii) any other security into or for which the Common Stock referred to in clause (i) has been converted, substituted or exchanged pursuant to any reclassification, merger or consolidation, and any security issued or issuable with respect thereto upon any stock dividend or stock split. As to any particular Registrable Common Stock, such securities shall cease to be Registrable Common Stock when (A) a registration statement registering such securities under the Securities Act has been declared effective and such securities have been sold or otherwise disposed of pursuant to such effective registration statement, (B) such securities are sold or are otherwise transferred and the Company has delivered a new certificate or other evidence of ownership for such securities not bearing any restrictive legend and such securities may be resold without subsequent registration under the Securities Act, (C) such securities are repurchased by the Company or a subsidiary of the Company or cease to be outstanding, (D) such securities may be resold pursuant to Rule 144, whether or not any such sale has occurred or (E) such securities are transferred to a Person that is not, or at any time following such transfer ceases to be, a 100% owned (directly or indirectly) Affiliate of the Stockholder.

"Registration Expenses" has the meaning set forth in Section 6 hereof.

"Rule 144" means Rule 144 promulgated by the SEC pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such rule.

"Rule 415" means Rule 415 promulgated by the SEC pursuant to the Securities Act, as such rule may be amended from time to time, or any similar rule or regulation hereafter adopted by the SEC as a replacement thereto having substantially the same effect as such rule.

"SEC" means the Securities and Exchange Commission and any successor agency performing comparable functions.

"Securities Act" means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

"Shelf Registration Statement" means a registration statement of the Company filed with the SEC on either (i) Form S-3 (or any successor form or other appropriate form under the Securities Act), or a prospectus supplement to an existing Form S-3, or (ii) if the Company is not permitted to file a Registration Statement on Form S-3, an evergreen registration statement on Form S-1 (or any successor form or other appropriate form under the Securities Act), in each case for an offering to be made on a continuous basis pursuant to Rule 415 covering all of the Registrable Common Stock and which may also cover any other securities of the Company.

"Shelf Underwritten Offering" has the meaning set forth in Section 2(d) hereof.

"Stockholder" has the meaning set forth in the introductory paragraph.

"Underwritten Offering" means a sale of securities of the Company to an underwriter or underwriters for reoffering to the public, including any bought deal, Block Trade Offering or other block sale to a financial institution conducted as an underwritten offering to the public.

2. Shelf Registration.

(a) Filing. Subject to Section 2(c) hereof, the Stockholder may, by written notice delivered (which notice can be delivered at any time on or after the date of this Agreement) to the Company (the "Shelf Notice"), require the Company to, at the Company's option, either (i) file with the SEC as promptly as practicable (but no later than 30 days after the date the Shelf Notice is delivered), and to use commercially reasonable efforts to cause to be declared effective by the Commission at the earliest possible date permitted under the rules and regulations of the Commission (but no later than 60 days after such filing date), a Shelf Registration Statement covering the resale of Registrable Common Stock or (ii) file with the SEC a prospectus supplement covering the resale of Registrable Common Stock, in each case relating to the offer and sale, from time to time, of all of Registrable Common Stock owned by the Stockholder in accordance with the methods of distribution set forth in the Shelf Registration Statement. Notwithstanding the foregoing, the Stockholder shall not be entitled to require the Company to file a new Shelf Registration Statement if the Company has an effective existing Resale Registration Statement containing a plan of distribution that covers the resale of the Registrable Common Stock and the

Company is permitted to include such Registrable Common Stock therein according to the limitations of such form of registration statement.

(b) Continued Effectiveness. Subject to Section 2(c) hereof, the Company will use commercially reasonable efforts to keep the Shelf Registration Statement continuously effective until the date on which all Registrable Common Stock covered by the Shelf Registration Statement (i) have been sold thereunder in accordance with the plan and method of distribution disclosed in the Prospectus included in the Shelf Registration Statement or (ii) cease to be Registrable Common Stock (such period, the "Effective Period").

(c) Suspension of Registration. Notwithstanding anything to the contrary contained in this Agreement, the Company shall be entitled in its discretion, from time to time, by providing notice to the Stockholder, to postpone the filing or the effectiveness of the Shelf Registration Statement or require the Stockholder to suspend the use of the Prospectus for sale of Registrable Common Stock under the Shelf Registration Statement for a reasonable period of time not to exceed 60 days in succession or 180 days in the aggregate in any 12 month period (a "Delay Period") if the Company's Board of Directors determines in good faith and in its reasonable judgment that it is required to disclose in the Shelf Registration Statement a financing, acquisition, corporate reorganization or other similar transaction or other material event or circumstance affecting the Company or its securities. The Stockholder agrees to suspend use of the applicable Prospectus and any free writing prospectus in connection with any sale or purchase of, or offer to sell or purchase, Registrable Common Stock, upon receipt of the notice referred to above. The Company shall immediately notify the Stockholder upon the termination or expiration of any Delay Period and thereafter, as promptly as practicable, prepare a post-effective amendment or supplement to the Shelf Registration Statement or the Prospectus, or any document incorporated therein by reference, so that, as thereafter delivered to purchasers of the Registrable Common Stock included therein, the Prospectus will not include an untrue statement of a material fact or omit to state any material fact necessary to make the statements therein, in the light of the circumstances under which they were made, not misleading.

(d) Shelf Underwritten Offerings.

(i) Subject to Section 9 hereof, during the Effective Period (except during a Delay Period), the Stockholder may notify the Company in writing of its intent to sell Registrable Common Stock covered by the Shelf Registration Statement (in whole or in part) in an Underwritten Offering (a "Shelf Underwritten Offering"); provided that the Company shall not be obligated to engage an underwriter in connection any Shelf Underwritten Offering unless the amount of Registrable Common Stock to be sold by the Stockholder, together with any shares of Common Stock to be sold for the account of the Company and any other participating stockholders, equals at least 15% of the Company's total outstanding market capitalization for its Common Stock as of the date of such written notice. The Stockholder shall give written notice to the Company of such intention at least five Business Days (or at least two Business Days in connection with a Shelf Underwritten Offering that is a Block Trade Offering) prior to the date on which such Shelf Underwritten Offering is anticipated to launch, specifying the number of Registrable Common Stock for which the Stockholder is requesting registration

under this Section 2(d) and the other material terms of such Shelf Underwritten Offering to the extent known.

(ii) If any managing underwriter of a Shelf Underwritten Offering advises the Company or the Stockholder that, in its opinion, the inclusion of all the equity securities sought to be included in such registration would adversely affect the marketability of the equity securities sought to be sold pursuant thereto, then the Company shall include in the Shelf Registration Statement applicable to such Shelf Underwritten Offering only such equity securities as the Company is so advised by such underwriter can be sold without such an effect, as follows and in the following order of priority: (1) *first* all the Registrable Common Stock requested to be included in such registration by the Stockholder and (2) *second* any securities proposed to be registered for the account of the Company or any other participating stockholder with such priorities among them as may from time to time be determined or agreed to by the Company.

(iii) The Stockholder shall be permitted to withdraw all or part of its Registrable Common Stock from a Shelf Underwritten Offering at any time prior to 7:00 a.m., New York City time, on the date on which the Shelf Underwritten Offering is anticipated to launch.

(e) Withdrawal Rights. The Stockholder having notified the Company to include any or all of its Registrable Common Stock in a Shelf Registration Statement under this Section 2 shall have the right to withdraw any such notice (which may not be re-made except in accordance with Section 9 hereof) with respect to any or all of the Registrable Common Stock designated by it for registration by giving written notice to such effect to the Company prior to the effective date of such Shelf Registration Statement. In the event of any such withdrawal, the Company shall not include such Registrable Common Stock in the applicable registration and such Registrable Common Stock shall continue to be Registrable Common Stock for all purposes of this Agreement. No such withdrawal shall affect the obligations of the Company with respect to the Registrable Common Stock not so withdrawn.

(f) "Baby Shelf Rule" Cutback. Notwithstanding anything to the contrary set forth in this Agreement, to the extent that the Company would be prohibited from registering all of the Registrable Common Stock to be included in any Shelf Registration Statement under this Section 2 by reason of Instruction I.B.6 to Form S-3, the Company shall be entitled to exclude such excess Registrable Securities from such Shelf Registration Statement.

3. Piggyback Registration.

(a) Participation. Subject to the terms and conditions hereof, whenever the Company (i) proposes to register its Common Stock under the Securities Act for its own account or for the account of others (other than a registration by the Company (x) on a registration statement on Form S-4 (or any successor form thereto) or otherwise in connection with a direct or indirect acquisition by the Company or one of its subsidiaries of another Person or a similar business combination transaction, (y) on a registration statement on Form S-8 (or any successor form thereto) or otherwise solely relating to an offering and sale to employees or directors of the Company pursuant to any employee share plan or other employee benefit plan arrangement or (z) pursuant to

Section 2 hereof) or (ii) proposes to effect an Underwritten Offering of its Common Stock pursuant to an effective Shelf Registration Statement (other than an Underwritten Offering pursuant to Section 2 hereof) (each, a "Piggyback Registration"), the Company shall give the Stockholder prompt written notice thereof (but not less than five Business Days prior to the filing by the Company with the SEC of such registration statement or launch of such Underwritten Offering; provided, that for any Block Trade Offering, two Business Days' notice shall be sufficient). Such notice (a "Piggyback Notice") shall specify the number of shares of Common Stock proposed to be included in such registration statement or Underwritten Offering, the proposed date of filing of such registration statement with the SEC or launch of such Underwritten Offering, the proposed means of distribution and the proposed managing underwriter or underwriters (if any and if known). Upon the written request of the Stockholder, given within (A) one Business Day, in the case of any Block Trade Offering, or (B) three Business Days, in the case of any other registration or offering, after such Piggyback Notice is received by the Stockholder (which written request shall specify the number of Registrable Common Stock then presently intended to be disposed of by the Stockholder), the Company, subject to the terms and conditions of this Agreement, shall use its commercially reasonable efforts to cause all such Registrable Common Stock held by the Stockholder with respect to which the Company has received such written request for inclusion to be included in such Piggyback Registration on the same terms and conditions as the Company's Common Stock being sold in such Piggyback Registration.

(b) Piggyback Priorities. If, in connection with a Piggyback Registration, any managing underwriter (or, if such Piggyback Registration is not an Underwritten Offering, a nationally recognized investment bank selected by the Company, reasonably acceptable to the Stockholder) advises the Company that, in its opinion, the inclusion of all the equity securities sought to be included in such Piggyback Registration by (i) the Company, (ii) others who have sought to have equity securities of the Company registered in such Piggyback Registration pursuant to rights to demand (other than pursuant to so-called "piggyback" or other incidental or participation registration rights) such registration (such Persons being "Other Demanding Sellers"), (iii) the Stockholder and (iv) any other proposed sellers of equity securities of the Company (such Persons being "Other Proposed Sellers"), as the case may be, would adversely affect the marketability of the equity securities sought to be sold pursuant thereto, then the Company shall include in the registration statement applicable to such Piggyback Registration only such equity securities as the Company is so advised by such underwriter or investment bank can be sold without such an effect, as follows and in the following order of priority:

(i) if the Piggyback Registration relates to an offering for the Company's own account, then (A) *first*, such number of equity securities to be sold by the Company as the Company shall have determined, (B) *second*, the Registrable Common Stock of the Stockholder and equity securities sought to be registered by each of the Other Demanding Sellers (if any), *pro rata* on the basis of the number of shares of Common Stock held by the Stockholder and the Other Demanding Sellers and (C) *third*, other equity securities held by any Other Proposed Sellers; or

(ii) if the Piggyback Registration relates to an offering other than for the Company's own account, then (A) *first*, such number of equity securities sought to be registered by each of the Other Demanding Sellers and the Stockholder (if any), *pro rata* in proportion to the number of shares of Common Stock held by all such

Other Demanding Sellers and the Stockholder and (B) *second*, other equity securities held by any Other Proposed Sellers or to be sold by the Company as determined by the Company and with such priorities among them as may from time to time be determined or agreed to by the Company.

(c) Same Underwriting Terms. In connection with any Underwritten Offering under this Section 3, the Company shall not be required to include a the Stockholder's Registrable Common Stock in the Underwritten Offering unless the Stockholder accepts the terms and conditions of the underwriting as agreed upon between the Company and the underwriters selected by the Company, with, in the case of a combined primary and secondary offering, such differences, including any with respect to representations and warranties and indemnification, as may be customary or appropriate in combined primary and secondary offerings.

(d) Delay or Withdrawal of Piggyback Registration.

(i) If, at any time after giving written notice of its intention to register any of its equity securities or sell any Common Stock in an Underwritten Offering as set forth in this Section 3 and prior to the time the registration statement filed in connection with such Piggyback Registration is declared effective or the launch date of such Underwritten Offering, the Company shall determine for any reason not to register or sell or to delay such sale or registration of such Common Stock, the Company may, at its election, give written notice of such determination to the Stockholder and thereupon (1) in the case of a determination not to sell or register, shall be relieved of its obligation to register any Registrable Common Stock in connection with such particular withdrawn or abandoned Piggyback Registration; *provided*, that Stockholders may continue the registration pursuant to the terms of Section 2 hereof and (2) in the case of a determination to delay selling or registering, shall be permitted to delay selling or registering any Registrable Common Stock, for the same period as the delay in registering such other Common Stock.

(ii) The Stockholder shall be permitted to withdraw all or part of its Registrable Common Stock from a Piggyback Registration at any time prior to the effectiveness of such registration statement or at any time prior to 7:00 a.m., New York City time, on the date on which the Underwritten Offering is anticipated to launch, as the case may be.

(e) "Baby Shelf Rule" Cutback. Notwithstanding anything to the contrary set forth in this Agreement, to the extent that the Company would be prohibited from registering all of the Registrable Common Stock to be included in any Piggyback Registration under this Section 3 by reason of Instruction I.B.6 to Form S-3, the Company shall be entitled to exclude such excess Registrable Securities from such Piggyback Registration.

4. Holdback Agreements.

If requested by the Company or any managing underwriter of an Underwritten Offering of the Company's equity securities, the Stockholder shall agree not sell or otherwise transfer or dispose of any shares of Registrable Common Stock or other security of the Company during the

period beginning on the date that is estimated by the Company in good faith to be the seventh (7th) calendar day prior to the effective date of the applicable registration statement (or the anticipated launch date in the case of a "take-down" off of an already effective Shelf Registration Statement) until the earlier of (i) such time as the Company and such lead managing underwriter shall agree and (ii) ninety calendar days after the effective date of the applicable registration statement (or the pricing date in the case of a "take-down" off of an already effective Shelf Registration Statement); provided, that any lead managing underwriter may extend such period as necessary to comply with applicable FINRA rules.

5. Registration Procedures.

(a) Company Cooperation. In connection with any registration and sale of Registrable Common Stock pursuant to Section 2 or 3 of this Agreement, during the Effective Period and subject to the provisions of such Sections, the Company shall:

(i) prepare and file with the SEC, as applicable, (A) the Shelf Registration Statement and use its reasonable best efforts to cause such Registration Statement to become effective or (B) the prospectus supplement, in each case as contemplated in Section 2(a) hereof;

(ii) prepare and file with the SEC such amendments and supplements to such Shelf Registration Statement and the Prospectus used in connection therewith as may be necessary to keep such Registration Statement effective for the Effective Period;

(iii) furnish to the Stockholder such number of copies of such Shelf Registration Statement, each amendment and supplement thereto, each Prospectus and such other documents (but not including any report or other document filed or furnished pursuant to the Exchange Act) as the Stockholder may reasonably request in order to facilitate the disposition of the Registrable Common Stock, provided, however, that the Company shall have no such obligation to furnish copies of a final prospectus if the conditions of Rule 172(c) under the Securities Act are satisfied by the Company;

(iv) furnish to counsel for the Stockholder and for the underwriters, if any, with copies of any written comments from the SEC or any state securities authority or any written request by the SEC or any state securities authority relating to the Shelf Registration Statement or related Prospectus;

(v) use its reasonable best efforts to register or qualify such Registrable Common Stock under such other securities or blue sky laws of such U.S. jurisdictions as the Stockholder reasonably requests in writing; provided, that the Company will not be required to (1) qualify generally to do business in any jurisdiction where it would not otherwise be required to qualify but for this subparagraph (iv), (2) subject itself to taxation in any such jurisdiction, (3) consent to general service of process in any such jurisdiction or (4) make any changes to any report filed or furnished pursuant to the Exchange Act that are incorporated by reference into such Registration Statement;

(vi) notify the Stockholder, at any time when a Prospectus relating thereto is required to be delivered under the Securities Act, of the occurrence of any event as a result of which any Prospectus contains an untrue statement of a material fact or omits any material fact necessary to make the statements therein not misleading, and, at the request of the Stockholder, promptly prepare and furnish to the Stockholder a reasonable number of copies of a supplement to or an amendment of such Prospectus as may be necessary so that, as thereafter delivered to the purchasers of Registrable Common Stock covered thereby, such Prospectus shall not include an untrue statement of a material fact or omit to state a material fact required to be stated therein or necessary to make the statements therein not misleading;

(vii) in connection with an Underwritten Offering, make available for inspection by the Stockholder and any underwriter participating in the Underwritten Offering, during regular business hours, all financial and other records, pertinent corporate documents and properties of the Company, and cause the Company's officers, directors, employees and independent accountants to supply all information reasonably requested by the Stockholder or such underwriter, to conduct a reasonable due diligence investigation within the meaning of Section 11 of the Securities Act in connection with such Registration Statement; provided, that the foregoing investigation and information gathering shall be coordinated on behalf of such parties by one firm of counsel designated by and on behalf of the Stockholder and one firm of counsel designated by and on behalf of all of the underwriters; and provided further that each Person receiving such information shall, as a condition to receiving such information, agree in writing pursuant to confidentiality agreements in form and substance reasonably satisfactory to the Company to keep such information confidential and to take such actions as are reasonably necessary to protect the confidentiality of such information;

(viii) use its reasonable best efforts to cause all such Registrable Common Stock to be listed on the principal securities exchange on which the Common Stock is then listed; and

(ix) promptly notify the Stockholder and, in connection with an Underwritten Offering, any underwriter:

(1) when the Registration Statement, any pre-effective amendment, the Prospectus or any Prospectus supplement or post-effective amendment to the Registration Statement has been filed (but not including any report or other document filed or furnished pursuant to the Exchange Act) and, with respect to the Registration Statement or any post-effective amendment, when the same has become effective;

(2) of any written request by the SEC for amendments or supplements to the Registration Statement or any Prospectus or of any inquiry by the SEC relating to the Registration Statement;

(3) of the notification to the Company by the SEC of its initiation of any proceeding with respect to the issuance by the SEC of any stop order suspending the effectiveness of the Registration Statement; and

(4) of the receipt by the Company of any notification with respect to the suspension of the qualification of any Registrable Common Stock for sale under the applicable securities or blue sky laws of any jurisdiction.

(b) Stockholder Cooperation.

(i) The Stockholder shall furnish to the Company any information regarding the Stockholder and the distribution of such securities as the Company reasonably determines is required or advisable in connection with the registration of the Stockholder's Registrable Common Stock and the Company shall not have any obligation to include the Stockholder on any registration statement (or prospectus supplement to an existing Shelf Registration Statement) if such information is not promptly provided; provided, that, prior to excluding the Stockholder on the basis of its failure to provide such information, the Company shall furnish in writing a reminder to the Stockholder requesting such information at least three days prior to filing the applicable registration statement or prospectus supplement.

(ii) The Stockholder agrees that, upon receipt of any notice from the Company of the happening of any event of the kind described in Section 5(a)(vi) hereof, the Stockholder will forthwith discontinue disposition of Registrable Common Stock pursuant to the applicable registration statement and Prospectus until the Stockholder is advised in writing by the Company that the use of the Prospectus may be resumed and is furnished with a supplemented or amended Prospectus contemplated by Section 5(a)(vi) hereof and, if so directed by the Company, deliver to the Company, at the Company's expense, all copies, other than permanent file copies, then in the Stockholder's possession of the Prospectus current at the time of receipt of such notice relating to such Registrable Common Stock.

(iii) The Stockholder shall not use any free writing prospectus (as defined in Rule 405 under the Securities Act) in connection with any registration statement covering Registrable Common Stock, without the prior written consent of the Company.

(c) Underwritten Offerings Procedures.

(i) The Stockholder may not participate in any Underwritten Offering (including a Shelf Underwritten Offering requested pursuant to Section 3(a) hereof) unless it completes, executes and delivers (or causes to be delivered, as the case may be) all questionnaires, powers of attorney, indemnities, underwriting agreements, legal opinions and other documents reasonably required under the terms of such underwriting arrangements and the provisions set forth herein in respect of registration rights.

(ii) Any investment bank(s) that will serve as an underwriter with respect to any Underwritten Offering (including a Shelf Underwritten Offering requested pursuant to Section 2(d) hereof), shall be selected by the Company.

6. Registration Expenses.

(a) The Company shall pay any and all expenses incident to the Company's performance of or compliance with this Agreement, including, without limitation, all (i) registration and filing fees (including SEC registration fees and FINRA fees), (ii) fees and expenses of compliance with securities or blue sky laws, (iii) NYSE listing fees, (iv) expenses in connection with the preparation, printing, mailing and delivery of any registration statements, prospectuses and other documents in connection therewith and any amendments or supplements thereto, (v) transfer agent's and registrar's fees and expenses, (vi) fees and disbursements of counsel, accountants and other Persons retained by the Company and (vii) except as set forth in Section 6(b) hereof, all reasonable and documented out-of-pocket-expenses of the Stockholder (all such expenses, "Registration Expenses").

(b) The Stockholder shall pay all underwriting fees, discounts and commissions applicable to the sale of its Registrable Common Stock, and fees and disbursements of its counsel.

7. Indemnification.

(a) The Company agrees to indemnify and hold harmless the Stockholder, its partners, directors, officers, Affiliates and agents, and each Person who controls (within the meaning of Section 15 of the Securities Act) the Stockholder from and against any and all losses, claims, damages, liabilities and expenses (including reasonable costs of investigation) (each, a "Liability" and collectively, "Liabilities"), arising out of or based upon any untrue, or allegedly untrue, statement of a material fact contained in any registration statement or prospectus or arising out of or based upon any omission or alleged omission to state therein a material fact required to be stated therein or necessary to make the statements therein not misleading under the circumstances such statements were made, except insofar as such Liability (x) arises out of or is based upon any untrue statement or alleged untrue statement or omission or alleged omission contained in such registration statement or prospectus in reliance and in conformity with information furnished in writing to the Company by the Stockholder expressly for use therein, (y) arises out of or is based upon offers or sales effected by the Stockholder "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company, or (z) was caused by the Stockholder's failure to deliver or make available to the Stockholder's immediate purchaser a copy of the registration statement or prospectus or any amendments or supplements thereto (if the same was required by applicable law to be delivered or made available); provided, however, the obligations of the Company hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of the Company (which consent shall not be unreasonably withheld, conditioned or delayed).

(b) The Stockholder agrees to indemnify and hold harmless the Company, its directors, officers, Affiliates and agents, and each Person who controls the Company (within the meaning of Section 15 of the Securities Act) to the same extent as the foregoing indemnity from the Company

to the Stockholder, but only (x) if such statement or alleged statement or omission or alleged omission was made in reliance upon and in conformity with information furnished in writing to the Company by the Stockholder expressly for use in such registration statement or prospectus or (y) for any Liability which arises out of or is based upon offers or sales by the Stockholder "by means of" (as defined in Rule 159A under the Securities Act) a "free writing prospectus" (as defined in Rule 405 under the Securities Act) that was not authorized in writing by the Company; provided, however, that (x) the Stockholder shall not be liable hereunder for any amounts in excess of the gross proceeds received by the Stockholder pursuant to such registration, and (y) the obligations of the Stockholder hereunder shall not apply to amounts paid in settlement of any such claims, losses, damages or liabilities (or actions in respect thereof) if such settlement is effected without the consent of the Stockholder (which consent shall not be unreasonably withheld, conditioned or delayed).

(c) Any Person entitled to indemnification hereunder shall (i) give prompt written notice to the indemnifying party of any claim with respect to which it seeks indemnification and (ii) permit such indemnifying party to participate in, and to the extent that it may wish, assume the defense of such claim with counsel reasonably satisfactory to the indemnified party. If such defense is assumed, the indemnifying party shall not be subject to any liability for any settlement made by the indemnified party without its consent (but such consent will not be unreasonably withheld, conditioned or delayed). An indemnifying party who is not entitled to, or elects not to, assume the defense of a claim shall not be obligated to pay the fees and expenses of more than one counsel (in addition to any local counsel) for all parties indemnified by such indemnifying party with respect to such claim, unless in the reasonable judgment of any indemnified party there may be one or more legal or equitable defenses available to such indemnified party that are in addition to or may conflict with those available to another indemnified party with respect to such claim. Failure to give prompt written notice shall not release the indemnifying party from its obligations hereunder except to the extent the indemnifying party is materially prejudiced by such failure to give notice.

(d) The indemnification provided for under this Agreement shall remain in full force and effect regardless of any investigation made by or on behalf of the indemnified party or any officer, director or controlling Person of such indemnified party and shall survive the transfer of securities.

(e) If the indemnification provided for in or pursuant to this Section 7 is due in accordance with the terms hereof, but is held by a court to be unavailable or unenforceable in respect of any losses, claims, damages, liabilities or expenses referred to herein, then each applicable indemnifying party, in lieu of indemnifying such indemnified party, shall contribute to the amount paid or payable by such indemnified party as a result of such losses, claims, damages, liabilities or expenses in such proportion as is appropriate to reflect the relative benefits received by the indemnifying party on the one hand and of the indemnified party on the other in connection with the offering of the Registrable Common Stock. If, however, the allocation provided by the immediately preceding sentence is not permitted by applicable law, then each indemnifying party shall contribute to such amount paid or payable by such indemnified party in such proportion as is appropriate to reflect not only such relative benefits but also the relative fault of the indemnifying party on the one hand and of the indemnified party on the other in connection with the statements or omissions that result in such losses, claims, damages, liabilities or expenses as well as any other

relevant equitable considerations. The relative fault of the indemnifying party on the one hand and of the indemnified party on the other shall be determined by reference to, among other things, whether the untrue or alleged untrue statement of a material fact or the omission or alleged omission to state a material fact relates to information supplied by the indemnifying party or by the indemnified party, and by such party's relative intent, knowledge, access to information and opportunity to correct or prevent such statement or omission. In no event shall the liability of the Stockholder be greater in amount than the amount of gross proceeds received by the Stockholder upon such sale.

8. Transfer of Registration Rights.

The Stockholder may not transfer or assign all or any portion of its rights under this Agreement without the prior written consent of the Company; *provided*, that the Stockholder may assign its rights and obligations hereunder (in whole or in part) to a 100% owned (directly or indirectly) Affiliate that agrees in writing with the Company to be bound by this Agreement as fully as if it were an initial signatory hereto, and any such transferee may thereafter make corresponding assignments in accordance with this proviso but only to other 100% owned (directly or indirectly) Affiliates of the Stockholder. Any assignee permitted by the preceding sentence must remain a 100% owned (directly or indirectly) Affiliate of the Stockholder. In the event any shares of Registrable Common Stock are transferred to one or more 100% (directly or indirectly) owned Affiliates in a manner permitted by this Agreement, the Stockholder shall notify the Company in writing of a single Person that shall be the authorized representative to receive notices and take all actions on behalf of the Stockholder and/or its permitted 100% owned (directly or indirectly) Affiliate assignees.

9. Prohibitions on Requests; Stockholders' Obligations.

(a) The Stockholder shall not, without the Company's consent, be entitled to deliver a Shelf Notice or a request for a Shelf Underwritten Offering if less than 120 calendar days have elapsed since (A) the effective date of a prior registration statement in connection with a Shelf Notice or Piggyback Registration, (B) the date of withdrawal by the Stockholder of a Shelf Notice or request for a Shelf Underwritten Offering or (C) the pricing date of any Underwritten Offering effected by the Company; provided, in each case, that the Stockholder has been provided with an opportunity to participate in the prior offering and has refused or not promptly accepted such opportunity.

(b) The Stockholder shall not be entitled to sell any of its Registrable Common Stock pursuant to this Agreement, unless the Stockholder has timely furnished the Company with all information required to be disclosed in order to make the information previously furnished to the Company by the Stockholder not misleading and any other information regarding the Stockholder and the distribution of such Registrable Common Stock as the Company may from time to time request pursuant to Section 5(b)(i) hereof. Any sale of any Registrable Common Stock by the Stockholder shall constitute a representation and warranty by the Stockholder that the information of the Stockholder furnished in writing by or on behalf of the Stockholder, to the Company does not include an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements in such information, in the light of the circumstances under which they were made, not misleading.

10. Miscellaneous.

(a) Termination. This Agreement and the obligations of the parties hereunder shall terminate upon such time as there are no Registrable Common Stock, except for the provisions of Sections 6 and 7 of this Agreement, which shall survive such termination.

(b) Notices. All notices, requests, consents and other communications required or permitted hereunder shall be in writing and shall be hand delivered or mailed postage prepaid by registered or certified mail or by facsimile transmission (with immediate telephone confirmation thereafter) and, in the case of the Stockholder, shall also be sent via e-mail,

If to the Company:

222 Lakeview Avenue, Suite 1660
West Palm Beach, Florida 33401
Attention: Chief Executive Officer

with a copy to (which shall not constitute notice):

Woods Oviatt Gilman LLP
1900 Bausch & Lomb Place
Rochester, NY 14604
Attention: Gregory W. Gribben, Esq.

If to the Stockholder:

Lancer Capital LLC
777 South Flagler Drive Suite 800W
West Palm Beach, FL 33401
Attention: Avram A. Glazer

If to a transferee Stockholder, to the address of such transferee Stockholder set forth in the transfer documentation provided to the Company;

in each case, or at such other address as such party each may specify by written notice to the others, and each such notice, request, consent and other communication shall for all purposes of the Agreement be treated as being effective or having been given when delivered personally, upon one Business Day after being deposited with a courier if delivered by courier, upon receipt of facsimile or email confirmation if transmitted by facsimile or email, as applicable, or, if sent by mail, at the earlier of its receipt or 72 hours after the same has been deposited in a regularly maintained receptacle for the deposit of United States mail, addressed and postage prepaid as aforesaid.

(c) No Waivers. No failure or delay by any party in exercising any right, power or privilege hereunder shall operate as a waiver thereof nor shall any single or partial exercise thereof preclude any other or further exercise thereof or the exercise of any other right, power or privilege. The rights and remedies herein provided shall be cumulative and not exclusive of any rights or remedies provided by law.

(d) Successors and Assigns. The provisions of this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns.

(e) Governing Law. The internal laws, and not the laws of conflicts (other than Section 5-1401 of the General Obligations Law of the State of New York), of New York shall govern the enforceability and validity of this Agreement, the construction of its terms and the interpretation of the rights and duties of the parties.

(f) Jurisdiction. Any suit, action or proceeding seeking to enforce any provision of, or based on any matter arising out of or in connection with, this Agreement or the transactions contemplated hereby may be brought in any federal or state court located in the County and State of New York, and each of the parties hereby consents to the jurisdiction of such courts (and of the appropriate appellate courts therefrom) in any such suit, action or proceeding and irrevocably waives, to the fullest extent permitted by law, any objection which it may now or hereafter have to the laying of the venue of any such suit, action or proceeding in any such court or that any such suit, action or proceeding which is brought in any such court has been brought in an inconvenient forum. Process in any such suit, action or proceeding may be served on any party anywhere in the world, whether within or without the jurisdiction of any such court. Without limiting the foregoing, each party agrees that service of process on such party as provided in Section 10(b) hereof shall be deemed effective service of process on such party.

(g) Waiver of Jury Trial. **EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY WAIVES ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATED TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

(h) Counterparts; Effectiveness. This Agreement may be executed in any number of counterparts (including electronically) and by different parties hereto in separate counterparts, with the same effect as if all parties had signed the same document. All such counterparts shall be deemed an original, shall be construed together and shall constitute one and the same instrument. This Agreement shall become effective when each party hereto shall have received counterparts hereof signed by all of the other parties hereto.

(i) Entire Agreement. This Agreement contains the entire agreement between the parties hereto with respect to the subject matter hereof and supersedes and replaces all other prior agreements, written or oral, among the parties hereto with respect to the subject matter hereof.

(j) Captions. The headings and other captions in this Agreement are for convenience and reference only and shall not be used in interpreting, construing or enforcing any provision of this Agreement.

(k) Severability. If any term, provision, covenant or restriction of this Agreement is held by a court of competent jurisdiction or other authority to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions of this Agreement shall remain in full force and effect and shall in no way be affected, impaired or invalidated so long as the economic or legal substance of the transactions contemplated hereby is not affected in any manner materially adverse to any party. Upon such a determination, the parties shall negotiate in good faith to modify this Agreement so as to effect the original intent of the parties as closely as possible in an acceptable manner in order that the transactions contemplated hereby be consummated as originally contemplated to the fullest extent possible.

(l) Amendments. The provisions of this Agreement, including the provisions of this sentence, may not be amended, modified or supplemented, and waivers or consents to or departures from the provisions hereof may not be given, without the written consent of the Company and the Stockholder.

[*Signature Page Follows*]

IN WITNESS WHEREOF, this Registration Rights Agreement has been duly executed by each of the parties hereto as of the date first written above.

COMPANY:

INNOVATE Corp.

By: */s/ Michael J. Sena*
Name: Michael J. Sena
Title: Chief Financial Officer

STOCKHOLDER:

Lancer Capital LLC

By: */s/ Avram A. Glazer*
Name: Avram A. Glazer
Title: Sole Member

SENIOR SECURED PROMISSORY NOTE

$20,000,000.00 January 31, 2024

San Ramon, California

For value received, R2 Technologies, Inc., a Delaware corporation (the "**Company**"), promises to pay to Lancer Capital LLC (the "**Holder**"), or its permitted assigns, in lawful money of the United States of America the principal sum of $20,000,000.00. Interest shall accrue from the date of this Secured Promissory Note (this "**Note**") on the unpaid principal amount at a rate equal to 20.00% simple interest per annum (or 22.00% simple interest per annum if provided by Section 3). Any capitalized terms not defined herein shall have the meaning as set forth in that certain Senior Secured Promissory Note Purchase Agreement, dated as of July 13, 2022 by and among the Company and the Holder (as may be amended from time to time, the "**Purchase Agreement**").

This Note consolidates, amends and restates those certain Senior Secured Promissory Notes, dated March 31, 2023 (in the principal amount of $13,028,194.90), April 28, 2023 (in the principal amount of $425,000.00), May 12, 2023 (in the principal amount of $525,000.00), May 31, 2023 (in the principal amount of $650,000.00), June 14, 2023 (in the principal amount of $562,500.00), June 28, 2023 (in the principal amount of $472,500.00), July 14, 2023 (in the principal amount of $562,500.00), July 28, 2023 (in the principal amount of $562,500.00), and August 15, 2023 (in the principal amount of $562,500.00), each amended by that certain Amendment of Senior Secured notes dated August 15, 2023, and that certain Amendment of Senior Secured notes dated effective as of November 15, 2023 (collectively, the "**Prior Notes**"), and represents a continuation of the debt of the Prior Notes.

The parties acknowledged and agree that the principal amount of this note represents a portion of the total principal plus accrued interest of the Prior Notes as of the date of this new Note.

This Note is subject to the following terms and conditions:

1. **PIK Interest; Repayment; Prepayment**.

(a) All accrued and unpaid interest on this Note shall be due and payable monthly in cash, in arrears, not later than the last day of each calendar month for that preceding month, and continuing until the entire indebtedness under this Note shall have been paid in full. Any accrued and unpaid interest on this Note not paid by the date provided in the prior sentence shall automatically be added to the principal amount of this Note effective as of the date such interest payment is due. Interest shall be computed on the per annum basis of a year of three hundred sixty five (365) days for the actual number of days (including the first day but excluding the last day) elapsed.

(b) The entire then-outstanding and unpaid principal amount of this Note, together with any accrued but unpaid interest under this Note (the "**Outstanding Amount**") may be prepaid in whole or in part upon five (5) days written notice to Holder, subject to the remainder of this Note, including without limitation Section 2 below.

(c) The Outstanding Amount shall be due and payable on the earlier to occur of (i) April 30, 2024, or (ii) within five (5) business days after the date on which the Company receives an aggregate of $20,000,000.00 from the consummation of one or more bona fide debt or equity financings, other capital investments, or capital contributions, whether from new or existing equity holders or debt holders, or (iii) the closing of (A) a Change of Control (as defined below) or (B) the sale of all or substantially all of the assets of the Company (such applicable date, the "**Maturity Date**"). For purposes hereof, a "**Change of Control**" means (a) the acquisition of ownership, directly or indirectly, beneficially or of record, by any Person or group (within the meaning of the Securities Exchange Act of 1934 and the rules of the Securities and Exchange Commission thereunder as in effect on the date hereof), of equity interests representing more than 50% of the aggregate voting power of the Company; or (b) occupation of

a majority of the seats (other than vacant seats) on the board of directors of the Company who were not members of the board of directors of the Company on the date of this Note.

2. **Exit Fee**. The Company shall pay to the Holder a fee (the "**Exit Fee**") equal to the percentage of the principal being repaid as provided on Schedule A hereto in connection with any payment of principal of this Note, whether made in connection with a repayment of this Note or a permitted or mandatory prepayment of this Note, following an Event of Default (as defined below), or otherwise. The Company shall pay such Exit Fee on the earliest of (a) the Maturity Date, (b) the date of the acceleration of the principal amount of this Note for any reason or, (c) if any portion of this Note is prepaid at any time, the date of such prepayment of this Note.

3. **Security; Guarantee**. The parties agree that the payment obligations of the Company arising under this Note are secured pursuant to the terms of (i) that certain Security Agreement dated as of July 13, 2022 by and between the Company and Holder (as amended from time to time, the "**Security Agreement**") and (ii) that certain Intellectual Property Security Agreement, dated as of July 13, 2022, by the Company in favor of the Holder (as amended from time to time, the "**IP Security Agreement**"). Reference hereby is made to the Security Agreement and the IP Security Agreement for a description of the nature and extent of the collateral serving as security for this Note and the rights of the Holder with respect to such security.

4. **Events of Default**. Interest shall accrue on the unpaid principal amount of this Note at a rate equal to 22.00% simple interest per annum, for the period beginning with the date of occurrence of an Event of Default (as defined below) and continuing for so long as such Event of Default is continuing. The Company shall immediately notify the Holder in writing upon becoming aware of the occurrence of any Event of Default; provided that the provision of such notice shall not effect or impair the Holder's rights hereunder. The occurrence of any of the following shall constitute an "**Event of Default**" under this Note:

(a) the Company shall fail to pay Holder in full the principal amount and all accrued and unpaid interest on this Note on the Maturity Date;

(b) the occurrence of an event of default pursuant to any Senior Indebtedness (as defined below), subject to applicable notice and cure periods;

(c) the Company shall (i) apply for or consent to the appointment of a receiver, trustee, liquidator or custodian of itself or of all or a substantial part of its property, (ii) make a general assignment for the benefit of its or any of its creditors or (iv) commence a voluntary case or other proceeding seeking liquidation, reorganization or other relief with respect to itself or its debts under any bankruptcy, insolvency or other similar law now or hereafter in effect or consent to any such relief or to the appointment of or taking possession of its property by any official in an involuntary case or other proceeding commenced against it;

(d) proceedings for the appointment of a receiver, trustee, liquidator or custodian of the Company or of all or a substantial part of the property thereof, or an involuntary case or other proceedings seeking liquidation, reorganization or other relief with respect to the Company or the debts thereof under any bankruptcy, insolvency or other similar law now or hereafter in effect shall be commenced and an order for relief entered or such proceeding shall not be challenged, dismissed or discharged within ninety (90) days of commencement;

(e) the dissolution or winding up of the Company; or

(f) the appointment of a receiver or trustee to take possession of any property or assets of the Company.

5. **Subordination**. The indebtedness evidenced by this Note is hereby expressly subordinated, to the extent and in the manner hereinafter set forth, in right of payment to the prior payment in full of all of the Company's Senior Indebtedness (as defined below).

(a) **Insolvency Proceedings**. If there shall occur any receivership, insolvency, assignment for the benefit of creditors, bankruptcy, reorganization, or arrangements with creditors (whether or not pursuant to bankruptcy or other insolvency laws), sale of all or substantially all of the assets, dissolution, liquidation, or any other marshaling of the assets and liabilities of the Company, no amount shall be paid by the Company in respect of the principal of, interest on or other amounts due with respect to this Note at the time outstanding, unless and until the principal of and interest on the Senior Indebtedness then outstanding shall be paid in full.

(b) **Subrogation**. Subject to the payment in full of all Senior Indebtedness, the holder of this Note shall be subrogated to the rights of the holder(s) of such Senior Indebtedness (to the extent of the payments or distributions made to the holder(s) of such Senior Indebtedness pursuant to the provisions of this Section 4) to receive payments and distributions of assets of the Company applicable to the Senior Indebtedness. No such payments or distributions applicable to the Senior Indebtedness shall, as between the Company and its creditors, other than the holders of Senior Indebtedness and the Holder, be deemed to be a payment by the Company to or on account of this Note; and for purposes of such subrogation, no payments or distributions to the holders of Senior Indebtedness to which the Holder would be entitled except for the provisions of this Section 4 shall, as between the Company and its creditors, other than the holders of Senior Indebtedness and the Holder, be deemed to be a payment by the Company to or on account of the Senior Indebtedness. Notwithstanding the foregoing, the Company represents and warrants to the Holder that (a) the terms of the Senior Indebtedness allow for the transactions contemplated by this Note and the repayment in full by the Company of its obligations pursuant to this Note on the Maturity Date without any default thereunder, and (b) no consent is required from any third party, including any holder of the Senior Indebtedness, to enter into the transaction contemplated by this Note or to pay in full the obligations of the Company pursuant to this Note, which consent has not been obtained prior to the date hereof.

(c) **No Impairment**. Nothing contained in this Section 4 shall impair, as between the Company and the Holder, the obligation of the Company, subject to the terms and conditions hereof, to pay to the Holder the principal hereof and interest hereon as and when the same become due and payable, or shall prevent the Holder of this Note, upon default hereunder, from exercising all rights, powers and remedies otherwise provided herein or by applicable law.

(d) **Reliance of the Holders of Senior Indebtedness**. The Holder, by its acceptance hereof, shall be deemed to acknowledge and agree that the foregoing subordination provisions are, and are intended to be, an inducement to and a consideration of each holder of Senior Indebtedness, whether such Senior Indebtedness was created or acquired before or after the creation of the indebtedness evidenced by this Note, and each such holder of Senior Indebtedness shall be deemed conclusively to have relied on such subordination provisions in acquiring and holding, or in continuing to hold, such Senior Indebtedness.

(e) **Senior Indebtedness.** For purposes of this Note, "**Senior Indebtedness**" shall mean, unless expressly subordinated to or made on a parity with the amounts due under this Note, the principal of (and premium, if any), unpaid interest on and amounts reimbursed, fees, expenses, costs of enforcement and other amounts due in connection with, (i) indebtedness of the Company, or with respect to which the Company is a guarantor, to banks, commercial finance lenders, insurance companies, leasing or equipment financing institutions or other lending institutions regularly engaged in the business of lending money (excluding venture capital, investment banking or similar institutions which from time to time engage in lending activities but which are primarily engaged in investments in equity securities), which is for money borrowed, or purchase or leasing of equipment in the case of lease or other equipment financing, by the Company, whether or not secured, and (ii) any debentures, notes or other evidence of

indebtedness issued in exchange for such Senior Indebtedness, or any indebtedness arising from the satisfaction of such Senior Indebtedness by a guarantor, in each case, to the extent in existence and outstanding as of the date of the Initial Closing (as defined in the Purchase Agreement).

6. **Prior Notes**. This Note consolidates, amends and restates the Prior Notes, which Prior Notes are of no further force nor effect.

7. **Expenses**. The Company agrees to pay all costs, expenses and reasonable attorneys' fees at any time paid or incurred by Holder to collect the indebtedness evidenced by this Note.

8. **Waiver**. No failure on the part of Holder to exercise, and no delay in exercising, any of the rights provided for herein shall operate as a waiver thereof, nor shall any single or partial exercise by Holder of any right preclude any other or future exercise thereof or the exercise of any other right. The Company waives presentment, protest or notice of dishonor and demand for payment and notice of default for non-payment.

9. **Transfer; Successors and Assigns.** The terms and conditions of this Note shall inure to the benefit of and be binding upon the respective successors and permitted assigns of the parties. Notwithstanding the foregoing, the Holder may not assign, pledge, or otherwise transfer this Note without the prior written consent of the Company, except for transfers to an entity controlled by or under common control with the Holder. Subject to the preceding sentence, this Note may be transferred only upon surrender of the original Note for registration of transfer, duly endorsed, or accompanied by a duly executed written instrument of transfer in form satisfactory to the Company. Thereupon, a new note for the same principal amount and interest will be issued to, and registered in the name of, the transferee. Interest and principal are payable only to the registered holder of this Note.

10. **Governing Law.** This Note and all acts and transactions pursuant hereto and the rights and obligations of the parties hereto shall be governed, construed and interpreted in accordance with the laws of the State of Delaware, without giving effect to principles of conflicts of law.

11. **Notices.** All notices and other communications given or made pursuant to this Note shall be in writing and shall be deemed effectively given upon the earlier of actual receipt, or (a) personal delivery to the party to be notified, (b) when sent, if sent by electronic mail or facsimile during normal business hours of the recipient, and if not sent during normal business hours, then on the recipient's next business day, (c) five (5) days after having been sent by registered or certified mail, return receipt requested, postage prepaid, or (d) one (1) business day after deposit with a nationally recognized overnight courier, freight prepaid, specifying next business day delivery, with written verification of receipt. All communications shall be sent to (i) to the Company at its corporate headquarters, to the Holder at the address as set forth on the signature pages to the Purchase Agreement, or to such e-mail address, facsimile number or address as subsequently modified by written notice given in accordance with this subsection.

12. **Amendments and Waivers.** Any term of this Note may be amended or waived only with the written consent of the Company and the Holder.

13. **Stockholders, Officers and Directors Not Liable.** In no event shall any stockholder, officer or director of the Company be liable for any amounts due or payable pursuant to this Note.

14. **Usury**. If any interest is paid on this Note which is deemed to be in excess of the then legal maximum rate, then that portion of the interest payment representing an amount in excess of the then legal maximum rate shall be deemed a payment of principal and applied against the principal of this Note.

Remainder of Page Intentionally Left Blank.

The Company has caused this Secured Promissory Note to be issued as of the date first written above.

COMPANY

R2 TECHNOLOGIES, INC.

By: */s/ Timothy Holt*
Name: Timothy Holt
Title: Chief Executive Officer

AGREED AND ACCEPTED

LANCER CAPITAL LLC

By: Avram Glazer Irrevocable Exempt Trust,
its Sole Member

By: */s/ Avram Glazer*
Name: Avram Glazer
Title: Trustee

SCHEDULE A

EXIT FEE

If Principal Payment is made:		**Exit Fee is the equal to the principal repaid times the following percentage:**
On or after:	and prior to:	
February 1, 2024	March 1, 2024	10.20%
March 1, 2024	April 1, 2024	10.37%
April 1, 2024	May 1, 2024	10.54%

Exhibit 21.1

SUBSIDIARIES OF THE REGISTRANT[1]

Subsidiary	Jurisdiction of Organization
DBM Global Intermediate Holdco Inc.	Delaware
INNOVATE 2 Corp	Delaware
INNOVATE International Holding Corp.	Delaware
TIC Holdco Inc.[2]	Delaware

Subsidiaries of DBM Global Intermediate Holdco Inc., INNOVATE 2 Corp. and INNOVATE International Holding Corp., are listed below. All subsidiaries are wholly-owned by their respective parent, except where otherwise indicated.

SUBSIDIARIES OF DBM GLOBAL INTERMEDIATE HOLDCO INC.

Subsidiary	Jurisdiction of Organization
DBM Global Inc. (91.21%)[3]	Delaware
Banker Steel Holdco LLC	Delaware
Banker Steel Co., L.L.C.	Delaware
Lynchburg Freight & Specialty LLC	Delaware
US Erectors LLC	Delaware
Innovative Engineering Solutions LLC[4]	Delaware
Memco, LLC[5]	Delaware
NYC Constructors, LLC	Delaware
NYCC Construction Services, LLC	Delaware
US Construction Services, Inc.	Delaware
Innovative Detailing Services, Ltd.	Ontario, Canada
NYC Construction Services, Ltd.	Ontario, Canada
Derr and Isbell Construction, LLC[6]	Texas
CB-Horn Holdings, Inc.	Delaware
GrayWolf Industrial, Inc.[7]	Delaware
M. Industrial Mechanical, Inc.	Delaware
Midwest Environmental, Inc.[8]	Kentucky
Milco National Constructors, Inc.[9]	Delaware
GrayWolf Integrated Construction Company[10]	Delaware
Titan Fabricators, Inc.	Kentucky
GrayWolf Integrated Construction Company-Southeast, Inc.	Georgia
DBM Global-North America Inc.	Delaware
Addison Structural Services, Inc.	Florida
Quincy Joist Company	Delaware
Aitken Manufacturing Inc.	Delaware
DBM Vircon Services (USA), Inc.[11]	Arizona
Innovative Structural Systems Inc.	Delaware
On-Time Steel Management Holding, Inc.	Delaware
Schuff Steel Management Company – Southwest, Inc.	Delaware
PDC Services (USA) Inc.	Delaware
Schuff Steel Company[12]	Delaware
Schuff Steel – Atlantic, LLC	Florida

Subsidiary	Jurisdiction of Organization
Schuff Steel Company – Panama S. de R.L.	Panama
DBM Global Holdings Inc.	Delaware
DBM Vircon Services (Canada) LTD [13]	British Columbia, Canada
DBM Vircon Services (India) Pvt Ltd	India
DBM Vircon Services (UK) Ltd	United Kingdom
DBMG International PTE LTD	Singapore
DBMG Singapore PTE LTD	Singapore
DBM Vircon (Australia) Pty Ltd	Australia
DBM Vircon Services (Australia) Pty Ltd	Australia
BDS Steel Detailers (Australia) Pty Ltd	Australia
DBM Vircon Services (NZ) Ltd	New Zealand
PDC Operations (Australia) Pty Ltd	Australia
DBM Vircon Services (Philippines) Inc.	Philippines
DBM Vircon Services (Thailand) Co. LTD	Thailand
Schuff Premier Services LLC	Delaware

SUBSIDIARIES OF INNOVATE 2 CORP.

Subsidiary	Jurisdiction of Organization
Global Marine Holdings, LLC (72.75%)	Delaware
New Saxon 2019 Ltd	United Kingdom
HC2 Broadcasting Holdings Inc.(98%)	Delaware
HC2 Broadcasting Intermediate Holdings Inc.	Delaware
HC2 Broadcasting Inc.	Delaware
DTV America Corporation (69.22%)[14]	Delaware
HC2 Network Inc.[15]	Delaware
HC2 Station Group, Inc.	Delaware
Pansend Life Sciences, LLC	Delaware
Genovel Orthopedics, Inc. (80%)	Delaware
R2 Technologies, Inc. (56.6%)[16]	Delaware

SUBSIDIARIES OF INNOVATE INTERNATIONAL HOLDING CORP.

Subsidiary	Jurisdiction of Organization
ICS Group Holdings Inc.	Delaware
PTGi International Carrier Services Ltd	United Kingdom

(1) Registrant, INNOVATE Corp., also does business as INNOVATE Corp. of the Northeast (NY and NC); INNOVATE Corp. of the Mideast (VA); and INNOVATE Corp. of the Southeast (FL).
(2) TIC Holdco Inc. also does business as The Innovate (FL).
(3) Registrant holds a total of 91.21% as follows: 89.83% through DBM Global Intermediate Holdco Inc. and 1.38% through INNOVATE Corp.
(4) Innovative Engineering Solutions LLC also does business as Innovative Engineers, LLC (FL) and Innovative Steel Solutions, LLC (New York).
(5) Memco LLC also does business as Memco Erectors LLC (CT and FL).
(6) Derr and Isbell Construction, LLC also does business as Derr & Isbell Construction, LLC (FL).

(7) GrayWolf Industrial, Inc. also does business as Graywolf (KY).
(8) Midwest Environmental, Inc. also does business as Midwest Environmental Inc. (GA) and Midwest Environmental, Inc., A Graywolf Company (Midwest Environmental, Inc.) (OH).
(9) Milco National Constructors, Inc. also does business as Milco National Constructors Corporation (NJ).
(10) GrayWolf Integrated Construction Company also does business as GrayWolf Integrated Construction Company, Inc. (AL, AK, MN, MT and NY)
(11) DBM Vircon Services (USA), Inc. also does business as BDS Vircon (WV)
(12) Schuff Steel Company also does business as Schuff Steel Company Inc. (AL and NY)
(13) DBM Vircon Services (Canada) Ltd also does business as name Candraft VSI (BC)
(14) Registrant holds a total of 66.43%, as follows: 42.35% (representing 98% of 43.22% direct interests) through HC2 Broadcasting Inc., 5.28% (representing 98% of 5.38% direct interests) through HC2 Broadcasting Holdings, Inc. and 17.83% through INNOVATE 2 Corp. In addition, HC2 holds an additional 2.79% voting interest through proxies from minority shareholders, for a total controlling interest of 69.22%.
(15) Also does business under several fictitious names in various states, as follows: HC2 Network Inc. – KEJR (AZ) and HC2 Network - KDKJ (TX)
(16) R2 Technologies, Inc. also does business as R2 Medical Technologies, Inc. (CA, OK, PA, TN, TX) and R2 Technologies, Inc. (DE) (GA and LA)

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in the Registration Statements on Form S-3 (No. 333-248695, No. 333-217274, No. 333-213107, No. 333-207266, and No. 333-207470) and Form S-8 (No. 333-224657, No. 333-218835, and No. 333-198727) of INNOVATE Corp. (the Company) of our reports dated March 6, 2024, relating to the consolidated financial statements, and the effectiveness of the Company's internal control over financial reporting, which appear in this Annual Report on Form 10-K.

/s/ BDO USA, P.C.

New York, NY
March 6, 2024

Exhibit 31.1

CERTIFICATIONS

I, Paul K. Voigt, certify that:

1. I have reviewed this Annual Report on Form 10-K of INNOVATE Corp.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 6, 2024

By: /s/ Paul K. Voigt

Name: Paul K. Voigt

Title: Interim President and Chief Executive Officer
(Principal Executive Officer)

Exhibit 31.2

CERTIFICATIONS

I, Michael J. Sena, certify that:

1. I have reviewed this Annual Report on Form 10-K of INNOVATE Corp.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

    a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

    b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

    c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

    d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

    a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

    b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Dated: March 6, 2024

By: /s/ Michael J. Sena

Name:	Michael J. Sena
Title:	Chief Financial Officer
	(Principal Financial and Accounting Officer)

Exhibit 32.1

CERTIFICATION

Pursuant to Section 906 of the Public Company Accounting Reform and Investor Protection Act of 2002 (18 U.S.C. §1350, as adopted), Paul K. Voigt, the Interim President and Chief Executive Officer (Principal Executive Officer) of INNOVATE Corp. (the "Company"), and Michael J. Sena, the Chief Financial Officer (Principal Financial and Accounting Officer) of the Company, each hereby certifies that, to the best of his knowledge:

1. The Company's Annual Report on Form 10-K for the year ended December 31, 2023, to which this Certification is attached as Exhibit 32 (the "Periodic Report"), fully complies with the requirements of Section 13(a) or Section 15(d) of the Securities Exchange Act of 1934, as amended; and

2. The information contained in the Periodic Report fairly presents, in all material respects, the financial condition of the Company at the end of the period covered by the Periodic Report and results of operations of the Company for the period covered by the Periodic Report.

Dated: March 6, 2024

/s/ Paul K. Voigt	/s/ Michael J. Sena
Paul K. Voigt	**Michael J. Sena**
Interim President and Chief Executive Officer (Principal Executive Officer)	**Chief Financial Officer (Principal Financial and Accounting Officer)**