

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

**FORM 10-Q/A**  
**(Amendment No. 1)**

(Mark One)

QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
for the quarterly period ended June 30, 2021

OR

TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934  
for the transition period from \_\_\_\_\_ to \_\_\_\_\_.

Commission File Number 000-23357

**INOTIV, INC.**

(Exact name of the registrant as specified in its charter)

INDIANA

(State or other jurisdiction of incorporation or organization)

35-1345024

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

2701 KENT AVENUE

WEST LAFAYETTE, INDIANA

(Address of principal executive offices)

47906

(Zip code)

(765) 463-4527

(Registrant's telephone number, including area code)

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

<u>Title of each class</u>	<u>Trading Symbol(s)</u>	<u>Name of each exchange on which registered</u>
Common Shares	NOTV	NASDAQ Capital Market

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

Indicate by check mark whether the registrant has submitted electronically every Interactive Data File required to be submitted pursuant to Rule 405 of Regulation S-T (§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 definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company" in Rule 12b-2 of the Exchange Act. (Check):

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 is a shell company (as defined in Rule 12b-2 of the Exchange Act). YES  NO

As of August 9, 2021, 15,914,695 of the registrant's common shares were outstanding.

## EXPLANATORY NOTE

Inotiv, Inc. (the “Company,” “we,” “us” or “our”) is filing this Amendment No. 1 to its Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2021 (the “Amendment”) to amend and restate certain financial information and related footnote and MD&A disclosure in its Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2021 originally filed with the Securities and Exchange Commission (the “SEC”) on August 13, 2021 (the “Existing Quarterly Report”). This Amendment also amends the disclosure regarding disclosure controls and procedures and internal controls over financial reporting in Item 4 of Part I of the Existing Quarterly Report, amends the disclosure regarding Risk Factors in Item 1A of Part II of the Existing Quarterly Report, and includes as exhibits new certifications required by Sections 302 and 906 of the Sarbanes-Oxley Act of 2002, as amended, from the Company's Chief Executive Officer and Chief Financial Officer dated as of the filing date of this Form 10-Q/A. Item 6 of Part II of the Existing Quarterly Report is amended to reflect the filing of these new certifications.

### *Background of Restatement*

On December 15, 2021, the Company's management and the Audit Committee of the Board of Directors concluded that, due to a failure to properly account for certain tax attributes related to an acquisition that occurred in the Company's third fiscal quarter, the Company's previously issued unaudited interim financial statements as of and for the three and nine months ended June 30, 2021 included in the Existing Quarterly Report should no longer be relied upon. Specifically, management and the Audit Committee concluded that, in accordance with ASC 805-740, the Company should have established a deferred tax liability with an offset to goodwill in connection with the accounting for the opening balance sheet of the Bolder BioPATH acquisition as a result of book-to-tax differences primarily related to the customer relationship intangible and property and equipment identified in the Company's June 30, 2021 quarterly financial statements. Subsequent to the establishment of the deferred tax liability as of the opening balance sheet, the Company should have reversed a portion of its (i.e. the acquiror) pre-existing valuation allowance and taken the income tax benefit through the statements of operations for the three and nine months ended June 30, 2021. The impact of these adjustments is to increase the amount of goodwill and deferred tax liability recorded on the June 30, 2021 balance sheet by approximately \$4.9 million and to reduce the Company's valuation allowance recorded on the June 30, 2021 balance sheet and increase income tax benefit in the statements of operations for the three and nine month periods ended June 30, 2021 by approximately \$4.9 million. Each of these adjustments is a non-cash item.

As a result, the Company's management, together with the Audit Committee, determined that the Company's financial statements and other financial data as of and for the quarterly period ended June 30, 2021 included in the Existing Quarterly Report should be restated in this Form 10-Q/A as a result of the error. This restatement results in non-cash, non-operating financial statement corrections.

The financial information that has been previously filed or otherwise reported for this period is superseded by the information in this Form 10-Q/A, and the financial statements and related financial information contained in the Existing Quarterly Report should no longer be relied upon. On December 16, 2021, the Company filed a Current Report on Form 8-K disclosing the non-reliance on the financial statements included in the Existing Quarterly Report.

This Amendment amends and restates Items 1, 2 and 4 of Part I and Items 1A and 6 of Part II of the Existing Quarterly Report, and no other information included in the Existing Quarterly Report is amended hereby. The explanatory caption at the beginning of each item of this Amendment sets forth the nature of the revisions to that item.

All referenced amounts in this Amendment for prior periods and prior period comparisons reflect the balances and amounts on a restated basis.

Except as described above, no other information included in the Existing Quarterly Report is being amended or updated by this Amendment, and this Amendment does not purport to reflect any information or events subsequent to the Existing Quarterly Report. This Amendment continues to describe the conditions as of the date of the Existing Quarterly Report and, except as expressly contained herein, we have not updated, modified or supplemented the disclosures contained in the Existing Quarterly Report. Accordingly, this Amendment should be read in conjunction with the Existing Quarterly Report and with our filings with the SEC subsequent to the Existing Quarterly Report.

### *Internal Control Considerations*

In connection with the restatement, management has reevaluated the effectiveness of the Company's disclosure controls and procedures and internal control over financial reporting as of June 30, 2021. The Company's management has concluded that, in light of the error described above, a material weakness exists in the Company's internal control over financial reporting and that certain of

the Company’s disclosure controls and procedures were not effective as of June 30, 2021. Management plans to enhance its system of evaluating and implementing the accounting standards that apply to our financial statements, specifically as it relates to the tax impact of acquisitions that qualify as stock transactions for tax purposes, including enhanced training of our personnel and an assessment of our non-audit third-party professionals with whom we consult regarding application of accounting guidance related to the tax impact of stock transactions. For a discussion of management’s consideration of our disclosure controls and procedures, internal controls over financial reporting, and the material weakness identified, see Part I, Item 4, “Controls and Procedures” of this Form 10-Q/A.

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**PART I – FINANCIAL INFORMATION****Item 1. RESTATED FINANCIAL STATEMENTS**

*The restated consolidated financial statements and supplementary data, including the notes to the restated condensed consolidated financial statements, set forth in this Item 1, have been revised to reflect the restatement occurring subsequent to the filing of the original Form 10-Q.*

**INOTIV, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
**As Restated, See Note 2**

(In thousands, except share amounts)

	<u>June 30,</u> <u>2021</u>	<u>September 30,</u> <u>2020</u>
	(Unaudited)	
<b>Assets</b>		
Current assets:		
Cash and cash equivalents	\$ 24,660	\$ 1,406
Accounts receivable		
Trade, net of allowance of \$513 at June 30, 2021 and \$561 at September 30, 2020	15,487	8,681
Unbilled revenues and other	4,472	2,142
Inventories, net	977	700
Prepaid expenses	2,466	2,371
Total current assets	<u>48,062</u>	<u>15,300</u>
Property and equipment, net	44,678	28,729
Operating lease right-of-use assets, net	8,695	4,001
Finance lease right-of-use assets, net	66	4,778
Goodwill	50,617	4,368
Other intangible assets, net	24,336	4,261
Lease rent receivable	106	75
Other assets	180	81
Total assets	<u>\$ 176,740</u>	<u>\$ 61,593</u>
<b>Liabilities and shareholders' equity</b>		
Current liabilities:		
Accounts payable	\$ 4,724	\$ 3,196
Restructuring liability	—	168
Accrued expenses	4,741	2,688
Customer advances	19,969	11,392
Capex line of credit	931	2,613
Current portion on long-term operating lease	1,916	866
Current portion of long-term finance lease	29	4,728
Current portion of long-term debt	14,752	5,991
Total current liabilities	<u>47,062</u>	<u>31,642</u>
Long-term operating leases, net	6,884	3,344
Long-term finance leases, net	39	44
Long-term debt, less current portion, net of debt issuance costs	28,700	18,826
Deferred tax liabilities, net	294	141
Total liabilities	<u>82,979</u>	<u>53,997</u>
Shareholders' equity:		
Preferred shares, authorized 1,000,000 shares, no par value:		
No Series A shares at June 30, 2021 and 25 shares at September 30, 2020 issued and outstanding at \$1,000 stated value	—	25
Common shares, no par value:		
Authorized 19,000,000 shares; 15,866,655 issued and outstanding at June 30, 2021 and 10,977,675 at September 30, 2020	3,928	2,706
Additional paid-in capital	110,230	26,775
Accumulated deficit	(20,397)	(21,910)
Total shareholders' equity	<u>93,761</u>	<u>7,596</u>
Total liabilities and shareholders' equity	<u>\$ 176,740</u>	<u>\$ 61,593</u>

*The accompanying notes are an integral part of the condensed consolidated financial statements*

**INOTIV, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS**  
**As Restated, See Note 2**

(In thousands, except per share amounts)  
(Unaudited)

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2021	2020	2021	2020
Service revenue	\$ 21,924	\$ 14,852	\$ 56,858	\$ 42,185
Product revenue	968	913	2,671	2,510
Total revenue	22,892	15,765	59,529	44,695
Cost of service revenue	14,701	10,113	38,204	29,119
Cost of product revenue	545	588	1,477	1,730
Total cost of revenue	15,246	10,701	39,681	30,849
Gross profit	7,646	5,064	19,848	13,846
Operating expenses:				
Selling	950	692	2,343	2,672
Research and development	107	105	290	429
Start up costs	479	120	841	232
General and administrative	7,813	4,624	18,584	12,205
Total operating expenses	9,349	5,541	22,058	15,538
Operating loss	(1,703)	(477)	(2,210)	(1,692)
Interest expense	(449)	(382)	(1,163)	(1,085)
Other income	1	1	180	13
Net income (loss) before income taxes	(2,151)	(858)	(3,193)	(2,764)
Income tax expense (benefit)	(4,753)	21	(4,706)	129
Net income (loss)	\$ 2,602	\$ (879)	\$ 1,513	\$ (2,893)
Basic net income (loss) per share	\$ 0.18	\$ (0.08)	\$ 0.12	\$ (0.27)
Diluted net income (loss) per share	\$ 0.17	\$ (0.08)	\$ 0.12	\$ (0.27)
Weighted common shares outstanding:				
Basic	14,656	10,910	12,274	10,807
Diluted	15,383	10,910	12,948	10,807

*The accompanying notes are an integral part of the condensed consolidated financial statements.*

**INOTIV, INC.**  
**CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY**  
**As Restated, See Note 2**

(In thousands, except number of shares)

	<b>Nine Month Period Ended June 30, 2021</b>						
	<b>Preferred Shares</b>		<b>Common Shares</b>		<b>Additional paid-in capital</b>	<b>Accumulated deficit</b>	<b>Total shareholders' equity</b>
	<b>Number</b>	<b>Amount</b>	<b>Number</b>	<b>Amount</b>			
Balance at September 30, 2020	25	\$ 25	10,977,675	\$ 2,706	\$ 26,775	\$ (21,910)	\$ 7,596
Net loss	—	—	—	—	—	(366)	(366)
Stock option exercises	—	—	23,350	6	39	—	45
Stock based compensation	—	—	116,974	29	152	—	181
Balance at December 31, 2020	25	\$ 25	11,117,999	\$ 2,741	\$ 26,966	\$ (22,276)	\$ 7,456
Net loss	—	—	—	—	—	(723)	(723)
Stock based compensation	—	—	12,502	3	275	—	278
Stock option exercises	—	—	36,040	9	56	—	65
Preferred stock conversion	(25)	(25)	12,500	3	22	—	—
Balance March 31, 2021	—	\$ —	11,179,041	\$ 2,756	\$ 27,319	(22,999)	\$ 7,076
Net income	—	—	—	—	—	2,602	2,602
Stock based compensation	—	—	15,352	4	577	—	581
Stock option exercises	—	—	39,910	10	68	—	78
Stock issued in acquisition	—	—	1,588,235	397	34,055	—	34,452
Equity raise	—	—	3,044,117	761	48,211	—	48,972
Balance at June 30, 2021	—	\$ —	15,866,655	\$ 3,928	\$ 110,230	(20,397)	\$ 93,761

  

	<b>Nine Month Period Ended June 30, 2020</b>						
	<b>Preferred Shares</b>		<b>Common Shares</b>		<b>Additional paid-in capital</b>	<b>Accumulated deficit</b>	<b>Total shareholders' equity</b>
	<b>Number</b>	<b>Amount</b>	<b>Number</b>	<b>Amount</b>			
Balance at September 30, 2019	35	\$ 35	10,510,694	\$ 2,589	\$ 25,183	\$ (17,097)	\$ 10,710
Adoption of accounting standard	—	—	—	—	—	(128)	(128)
Net loss	—	—	—	—	—	(1,426)	(1,426)
Stock issued in acquisition	—	—	240,000	60	1,073	—	1,133
Stock based compensation	—	—	54,363	14	67	—	81
Balance at December 31, 2019	35	\$ 35	10,805,057	\$ 2,663	\$ 26,323	\$ (18,651)	\$ 10,370
Net loss	—	—	—	—	—	(588)	(588)
Stock based compensation	—	—	26,521	7	116	—	123
Stock option exercises	—	—	32,703	8	12	—	20
Balance at March 31, 2020	35	\$ 35	10,864,281	\$ 2,678	\$ 26,451	\$ (19,239)	\$ 9,925
Net loss	—	—	—	—	—	(879)	(879)
Preferred stock conversion	—	(10)	5,000	1	9	—	—
Stock based compensation	—	—	40,000	11	166	—	176
Stock option exercises	—	—	54,394	13	(8)	—	5
Balance at June 30, 2020	35	\$ 25	10,963,675	\$ 2,703	\$ 26,617	\$ (20,118)	\$ 9,227

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

**INOTIV, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
**As Restated, See Note 2**

(In thousands)  
(Unaudited)

	Nine Months Ended June 30,	
	2021	2020
<b>Operating activities:</b>		
Net income (loss)	\$ 1,513	\$ (2,893)
Adjustments to reconcile net income (loss) to net cash provided by operating activities, net of acquisitions:		
Depreciation and amortization	4,087	2,747
Employee stock compensation expense	1,040	380
Changes in deferred taxes	(4,867)	—
Provision for doubtful accounts	50	(131)
Other non-cash operating activities	7	3
Financing lease interest expense	183	200
Changes in operating assets and liabilities:		
Accounts receivable	(4,010)	(701)
Inventories	(277)	(395)
Income tax accruals	—	154
Accounts payable	1,306	(2,040)
Accrued expenses	1,594	327
Customer advances	7,451	4,063
Other asset and liabilities, net	(28)	(128)
Net cash provided by operating activities	<u>8,049</u>	<u>1,586</u>
<b>Investing activities:</b>		
Capital expenditures	(8,358)	(5,094)
Proceeds from sale of equipment	2	—
Cash paid in acquisitions	(40,698)	(4,000)
Net cash used in investing activities	<u>(49,054)</u>	<u>(9,094)</u>
<b>Financing activities:</b>		
Payments on finance lease liability	(277)	(330)
Payments of long-term borrowings	(2,620)	(1,157)
Payments of debt issuance costs	(409)	(111)
Payments on revolving line of credit	—	(25,326)
Borrowings on revolving line of credit	—	24,263
Borrowings on construction loans	—	1,286
Borrowings on capex lines of credit	1,318	2,423
Borrowings on long-term loan	17,087	8,777
Proceeds from exercise of stock options	188	25
Proceeds from issuance of common stock, net	48,972	—
Net cash provided by financing activities	<u>64,259</u>	<u>9,850</u>
Net increase in cash and cash equivalents	23,254	2,342
Cash, cash equivalents, and restricted cash at beginning of period	1,406	606
Cash, cash equivalents, and restricted cash at end of period	<u>\$ 24,660</u>	<u>\$ 2,948</u>
<b>Supplemental disclosure of cash flow information:</b>		
Cash paid for interest	<u>\$ 832</u>	<u>\$ 771</u>
<b>Preclinical Research Services acquisition:</b>		
Assets acquired	\$ —	\$ 6,442
Liabilities assumed	—	(1,378)
Common shares issued	—	(1,133)
Cash paid	<u>\$ —</u>	<u>\$ 3,931</u>

*The accompanying notes are an integral part of the condensed consolidated financial statements.*

**INOTIV, INC.**  
**NOTES TO RESTATED CONDENSED CONSOLIDATED FINANCIAL STATEMENTS**  
**(Amounts in thousands except per share data or as otherwise indicated)**  
**(Unaudited)**

*Throughout these notes to the restated condensed consolidated financial statements, all referenced amounts for the third quarter of fiscal 2021 reflect the balances and amounts on a restated basis.*

**1. DESCRIPTION OF THE BUSINESS AND BASIS OF PRESENTATION**

Inotiv, Inc. and its subsidiaries (“We,” “Our,” “Us,” the “Company,” and “Inotiv”) comprise a leading contract research organization specializing in nonclinical and analytical drug discovery and development services. The Company also manufactures scientific instruments for life sciences research, which it sells with related software for use by pharmaceutical companies, universities, government research centers and medical research institutions. The Company’s customers are located throughout the world. On March 18, 2021, the Company filed Articles of Amendment to the Company’s Second Amended and Restated Articles of Incorporation, as amended, and amended its Second Amended and Restated Bylaws, as amended, to reflect a corporate name change from Bioanalytical Systems, Inc. to Inotiv, Inc.

The Company has prepared the accompanying unaudited interim condensed consolidated financial statements pursuant to the rules and regulations of the Securities and Exchange Commission (“SEC”) regarding interim financial reporting. Accordingly, they do not include all of the information and footnotes required by generally accepted accounting principles (“GAAP”), and therefore should be read in conjunction with the Company’s audited consolidated financial statements, and the notes thereto, included in the Company’s annual report on Form 10-K for the fiscal year ended September 30, 2020. In the opinion of management, the condensed consolidated financial statements for the three and nine months ended June 30, 2021 and 2020 include all adjustments which are necessary for a fair presentation of the results of the interim periods and of the Company’s financial position at June 30, 2021. The results of operations for the three and nine months ended June 30, 2021 may not be indicative of the results for the fiscal year ending September 30, 2021.

Certain reclassifications have been made to prior periods in the unaudited condensed consolidated and combined financial statements and accompanying notes to conform with current presentation.

Costs related to the development and initiation of new service offerings that are not revenue generating at this time are shown on a new line in the condensed consolidated statements of operations identified as *Startup costs*. These expenses include, but are not limited to, employee compensation expenses, travel expenses, relocation fees, and recruiting expenses. While certain of these costs are one-time in nature, there are certain costs (e.g. employee compensation expenses) that will be expected to recur once the new offerings are revenue generating at which time the related costs will be reclassified on the consolidated statements of operations. Certain prior period amounts have been reclassified for consistency with the current year presentation. These reclassifications had no effect on the reported results of operations.

**2. RESTATEMENT OF PREVIOUSLY ISSUED FINANCIAL STATEMENTS**

Subsequent to the filing of its Form 10-Q, the Company identified an error in its accounting for certain tax attributes related to the acquisition of Bolder BioPATH, Inc. in the Company’s third fiscal quarter. The Company should have established a deferred tax liability with an offset to goodwill in connection with the accounting for the opening balance sheet of the acquisition as a result of book-to-tax differences primarily related to the customer relationship intangible and property and equipment identified in the Company’s June 30, 2021 quarterly financial statements. Subsequent to the establishment of the deferred tax liability as of the opening balance sheet, the Company should have reversed a portion of its (i.e. the acquiror) pre-existing valuation allowance and taken the income tax benefit through the statements of operations for the three and nine months ended June 30, 2021.

The following tables summarize the effects of the restatement on the condensed consolidated balance sheet as of June 30, 2021 and on the condensed consolidated statements of operations for the three and nine months ended June 30, 2021.

	As of June 30, 2021 (unaudited)		
	As Previously Reported	Restated Adjustment	As Restated
<b>Balance Sheet</b>			
Total current assets	\$ 48,062	\$ —	\$ 48,062
Property and equipment, net	44,678	—	44,678
Goodwill	45,750	4,867	50,617
Other noncurrent assets	33,383	—	33,383
Total Assets	\$ 171,873	\$ 4,867	\$ 176,740
Liabilities and shareholders' equity			
Total liabilities	\$ 82,979	\$ —	\$ 82,979
Common shares, no par value	3,928	—	3,928
Additional paid-in-capital	110,230	—	110,230
Accumulated deficit	\$ (25,264)	\$ 4,867	\$ (20,397)
Total Liabilities and shareholders' equity	\$ 171,873	\$ 4,867	\$ 176,740

	Three Months Ended June 30, 2021 (unaudited)		
	As Previously Reported	Restated Adjustment	As Restated
Total revenue	\$ 22,892	\$ —	\$ 22,892
Total cost of revenue	15,246	—	15,246
Gross profit	7,646	—	7,646
Total operating expenses	9,349	—	9,349
Operating income (loss)	(1,703)	—	(1,703)
Interest expense	(449)	—	(449)
Other income (expense)	1	—	1
Income tax expense (benefit)	114	(4,867)	(4,753)
Net income (loss)	\$ (2,265)	\$ 4,867	\$ 2,602
Basic net income (loss) per share			
Basic net income (loss) per share	\$ (0.15)		\$ 0.18
Diluted net income (loss) per share	\$ (0.15)		\$ 0.17
Basic weighted average shares outstanding			
Basic weighted average shares outstanding	14,656	—	14,656
Diluted weighted average shares outstanding	14,656	727	15,383

	Nine Months Ended June 30, 2021 (unaudited)		
	As Previously Reported	Restated Adjustment	As Restated
Total revenue	\$ 59,529	\$ —	\$ 59,529
Total cost of revenue	39,681	—	39,681
Gross profit	19,848	—	19,848
Total operating expenses	22,058	—	22,058
Operating income (loss)	(2,210)	—	(2,210)
Interest expense	(1,163)	—	(1,163)
Other income (expense)	180	—	180
Income tax expense (benefit)	161	(4,867)	(4,706)
Net income (loss)	\$ (3,354)	\$ 4,867	\$ 1,513
Basic net income (loss) per share			
Basic net income (loss) per share	\$ (0.27)		\$ 0.12
Diluted net income (loss) per share	\$ (0.27)		\$ 0.12
Basic weighted average shares outstanding			
Basic weighted average shares outstanding	12,274	—	12,274
Diluted weighted average shares outstanding	12,274	674	12,948

### 3. EQUITY

#### *Common Stock Offering*

On April 23, 2021, we closed an underwritten public offering of 3,044,117 of our common shares, including 397,058 common shares sold pursuant to the full exercise by the underwriter of its option to purchase additional shares to cover over-allotments. All of the shares were sold at a price to the public of \$17.00 per share. Net proceeds from the offering were approximately \$49.0 million, after deducting the underwriting discount and estimated offering expenses.

#### *Stock Based Compensation*

In March 2008, the Company's shareholders approved the 2008 Stock Option Plan (the "Plan") to replace the 1997 Outside Director Stock Option Plan and the 1997 Employee Stock Option Plan. The purpose of the Plan was to promote the Company's long-term interests by providing a means of attracting and retaining officers, directors and key employees. The Compensation Committee administered the Plan and approved the particular officers, directors or employees eligible for grants. Under the Plan, employees were granted options to purchase common shares at an exercise price equal to the fair market value of the common shares of the end of the trading day prior to the date of the grant. Generally, options granted vest and become exercisable in three equal installments commencing one year from date of grant and expire upon the earlier of the employee's termination of employment, or ten years from the date of grant. Restricted shares are valued at the average of the high and low sale prices of the Company's common shares on the day prior to the date of the grant. The Plan is described more fully in Note 9 in the Notes to the Consolidated Financial Statements in the Company's Form 10-K for the fiscal year ended September 30, 2020.

In March 2018, the Company's shareholders approved the amendment and restatement of the Plan in the form of the Amended and Restated 2018 Equity Incentive Plan and in March 2020 the Company's shareholders approved a further amendment to increase the number of shares issuable under the amended and restated plan by 700 and to make corresponding changes to the number of shares issuable as incentive options and as restricted stock or pursuant to restricted stock units (as amended, the "Equity Plan"). The Company currently grants equity awards from the Equity Plan. The purpose of the Equity Plan is to promote the Company's long-term interests by providing a means of attracting and retaining officers, directors and key employees. At June 30, 2021, 413 shares remained available for grants under the Equity Plan.

The Company expenses the estimated fair value of stock options over the vesting periods of the grants. The Company recognizes expense for awards subject to graded vesting using the straight-line attribution method. The Company adopted a change in accounting policy effective October 1, 2020 for forfeitures. Prior to October 1, 2020, stock-based compensation expense was reduced for estimated forfeitures, and if necessary, an adjustment was recognized in future periods if actual forfeitures differed from those estimates. The accounting change was made prospectively; therefore, stock-based compensation for equity grants subsequent to October 1, 2020, will not be reduced for estimated forfeitures as expense will be adjusted in the period that a forfeiture occurs. The Company believes that this accounting change will more accurately account for expense relating to forfeitures. The Company has assessed the cumulative effect of this change in accounting policy and has deemed the impact to be immaterial; therefore, an adjustment has not been recorded to beginning retained earnings. Stock based compensation expense for the three and nine months ended June 30, 2021 was \$581 and \$1,040, respectively. Stock based compensation expense for the three and nine months ended June 30, 2020 was \$176 and \$380, respectively.

A summary of the Company's stock option activity for the nine months ended June 30, 2021 is as follows (in thousands except for share prices):

	Options (shares)	Weighted- Average Exercise Price
Outstanding - October 1, 2020	712	\$ 2.21
Granted	295	\$ 21.72
Exercised	(99)	\$ 1.89
Forfeited	(34)	\$ 3.88
Expired	(5)	\$ 2.03
Outstanding - June 30, 2021	<u>869</u>	<u>\$ 8.82</u>
Exercisable at June 30, 2021	<u>387</u>	<u>\$ 1.93</u>

The weighted average estimated fair value of stock options granted for the nine months ended June 30, 2021 and June 30, 2020 were \$13.41 and \$3.08, respectively. The weighted-average assumptions used to compute the fair value of the options granted in the nine months ended June 30, 2021 were as follows:

Risk-free interest rate	0.93 %
Dividend yield	— %
Volatility of the expected market price of the Company's common shares	70.48 %
Expected life of the options (years)	5.95

As of June 30, 2021, total unrecognized compensation cost related to non-vested stock options was \$3,914 and is expected to be recognized over a weighted-average service period of 2.7 years.

During the nine months ended June 30, 2021, the Company granted a total of 150 restricted shares to members of the Company's leadership team, including 40 restricted shares granted on December 29, 2020 to the CEO under his employment agreement. A summary of restricted share activity for the nine months ended June 30, 2021 is as follows:

	Restricted Shares	Weighted- Average Grant Date Fair Value
Outstanding – September 30, 2020	128	\$ 3.88
Granted	150	10.50
Vested	(10)	1.28
Forfeited	(5)	6.63
Outstanding – June 30, 2021	<u>263</u>	<u>\$ 7.70</u>

As of June 30, 2021, total unrecognized compensation cost related to non-vested restricted shares was \$1,360 and is expected to be recognized over a weighted-average service period of 1.7 years.

#### 4. INCOME (LOSS) PER SHARE (Restated)

The Company computes basic income (loss) per share using the weighted average number of common shares outstanding. The Company computes diluted earnings per share using the if-converted method for preferred shares, if any, and the treasury stock method for stock options, respectively. As of June 30, 2021, the Company only had dilutive potential common shares, which related to shares issuable upon exercise of options. Shares issuable upon exercise of 869 options were considered in computing diluted income per share for the three and nine months ended June 30, 2021. Shares issuable upon exercise of 751 options and 12 common shares issuable upon conversion of preferred shares were not considered in computing diluted income (loss) per share for the three and nine months ended June 30, 2020 because they were anti-dilutive.

The following table reconciles the computation of basic net income (loss) per share to diluted income (loss) per share:

	Three Months Ended		Nine Months Ended	
	June 30,		June 30,	
	2021	2020	2021	2020
<i>Basic and diluted net income (loss) per share:</i>				
Net income (loss) applicable to common shareholders	\$ 2,602	\$ (879)	\$ 1,513	\$ (2,893)
Weighted average common shares outstanding				
Basic	14,656	10,910	12,274	10,807
Diluted	15,383	10,910	12,948	10,807
Basic net income (loss) per share	\$ 0.18	\$ (0.08)	\$ 0.12	\$ (0.27)
Diluted net income (loss) per share	\$ 0.17	\$ (0.08)	\$ 0.12	\$ (0.27)

## 5. INVENTORIES

Inventories consisted of the following:

	June 30, 2021	September 30, 2020
Raw materials	\$ 507	\$ 577
Work in progress	77	70
Finished goods	550	230
	1,134	877
Obsolescence reserve	(157)	(177)
	\$ 977	\$ 700

## 6. SEGMENT INFORMATION

The Company operates in two principal segments - research services and research products. The Services segment provides research and development support on a contract basis directly to pharmaceutical companies. The Products segment provides liquid chromatography, electrochemical and physiological monitoring products to pharmaceutical companies, universities, government research centers and medical research institutions. The accounting policies of these segments are the same as those described in the summary of significant accounting policies found in Note 2 to the Consolidated Financial Statements in the Company's annual report on Form 10-K for the fiscal year ended September 30, 2020.

	Three Months Ended		Nine Months Ended	
	June 30,		June 30,	
	2021	2020	2021	2020
Revenue:				
Service	\$ 21,924	\$ 14,852	\$ 56,858	\$ 42,185
Product	968	913	2,671	2,510
	\$ 22,892	\$ 15,765	\$ 59,529	\$ 44,695
Operating Income (Loss)				
Service	\$ 3,868	\$ 2,460	\$ 10,942	\$ 6,393
Product	61	23	202	(447)
Corporate	(5,632)	(2,960)	(13,354)	(7,638)
	\$ (1,703)	\$ (477)	\$ (2,210)	\$ (1,692)
Interest expense	(449)	(382)	(1,163)	(1,085)
Other income	1	1	180	13
Loss before income taxes	\$ (2,151)	\$ (858)	\$ (3,193)	\$ (2,764)

## 7. INCOME TAXES (Restated)

The Company uses the asset and liability method of accounting for income taxes. The Company recognizes deferred tax assets and liabilities for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases and operating loss and tax credit carry-forwards. The Company measures deferred tax assets and liabilities using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The Company recognizes the effect on deferred tax assets and liabilities of a change in tax rates in income in the period that includes the enactment date. The Company records valuation allowances based on a determination of the expected realization of tax assets.

The difference between the enacted federal statutory rate of 21% and the Company's effective rate of 147.39% for the nine months ended June 30, 2021 is due primarily to changes in the valuation allowance on its net deferred tax assets, as well as the impact on tax expense of certain book to tax differences in the basis of indefinite-lived assets. The Company acquired deferred tax liabilities from Bolder BioPATH Inc., which required the Company to release a portion of its valuation allowance discretely to the quarter.

The Company recognizes the tax benefit from an uncertain tax position only if it is more likely than not to be sustained upon examination based on the technical merits of the position. The Company measures the amount of the accrual for which an exposure exists as the largest amount of benefit determined on a cumulative probability basis that it believes is more likely than not to be realized upon settlement of the position.

At June 30, 2021 and September 30, 2020, the Company had no liability for uncertain income tax positions.

The Company records interest and penalties accrued in relation to uncertain income tax positions as a component of income tax expense. Any changes in the liability for uncertain tax positions would impact the effective tax rate. The Company does not expect the total amount of unrecognized tax benefits to significantly change in the next twelve months.

The Company files income tax returns in the U.S. and several U.S. states. The Company remains subject to examination by taxing authorities in the jurisdictions in which it has filed returns for years after 2014.

On March 27, 2020, President Trump signed the Coronavirus Aid, Relief, and Economic Security (CARES) Act, due to the coronavirus pandemic. Among other things, the legislation provides tax relief for businesses. The Company is still assessing the tax benefit, if any, that it could receive under this legislation. The Company received a Payroll Protection Program ("PPP") loan of \$5,051 and applied for forgiveness of \$4,851. Based on satisfaction of requirements under the CARES Act for forgiveness, the Company recorded a deferred tax asset for nondeductible expense relating to the PPP funds of \$1,276 at September 30, 2020.

On December 27, 2020, the Consolidated Appropriations Act, 2021 was signed into law, clarifying that business expenses paid out of PPP forgivable loan funds may in fact be fully deducted for federal income tax purposes. Based on this clarification in the bill, the Company reversed the \$1,276 deferred tax asset related to PPP loan expenses, along with the corresponding valuation allowance for the same amount, as of December 31, 2020.

## 8. DEBT

### *Credit Facility*

On April 30, 2021, the Company entered into an Amended and Restated Credit Agreement (the "Credit Agreement") with First Internet Bank of Indiana ("FIB") to, among other things, secure additional debt financing in order to fund portions of the consideration for the HistoTox Labs Acquisition and the merger of one of the Company's wholly owned subsidiaries with Bolder BioPATH, Inc. ("Bolder BioPATH"), respectively. The Credit Agreement included eleven term loans (the "Term Loans"), an equipment draw loan (the "Equipment Loan"), and a revolving line of credit (the "Revolving Facility"). On May 26, 2021, the Company and FIB entered into an amendment to the Credit Agreement to, among other things, provide a new term loan facility to finance the acquisition and refurbishment of the Company's St. Louis facility, which it had previously leased. The material terms of each of the loans under the Credit Agreement, as amended, are described below.

Included in the Credit Agreement is a requirement that the Company maintain certain financial covenants, including maintaining a senior funded debt to adjusted EBITDA ratio (as defined in the Credit Agreement) of not greater than (i) 5.25 to 1.00 as of the date of the Credit Agreement and as of June 30, 2021, (ii) 4.75 to 1.00 as of September 30, 2021, (iii) 4.50 to 1.00 as of December 31, 2021, (iv) 4.25 to 1.00 as of March 31, 2022, (v) 4.00 to 1.00 as of June 30, 2022, and (vi) 3.50 to 1.00 as of September 30, 2022 and as of each fiscal quarter end thereafter.

Also included in the Credit Agreement is a requirement that the Company maintain a fixed charge coverage ratio (as defined in the Credit Agreement) of not less than (i) 1.20 to 1.00, commencing as of September 30, 2021, and continuing as of each fiscal quarter end thereafter up to and including June 30, 2022, and (ii) 1.25 to 1.00 as of September 30, 2022 and as of each fiscal quarter end thereafter.

Upon an event of default, which includes certain customary events such as, among other things, a failure to make required payments when due, a failure to comply with covenants, certain bankruptcy and insolvency events, and defaults under other material indebtedness, FIB may cease advancing funds, increase the interest rate on outstanding balances, accelerate amounts outstanding, terminate the agreement and foreclose on all collateral.

The obligations of the Company under the Credit Agreement are secured by all of the assets of the Company and are guaranteed by each of its subsidiaries and secured by the assets thereof. The Company has also obtained a life insurance policy in an amount not less than \$5,000 for its President and Chief Executive Officer and provided FIB an assignment of such life insurance policy as collateral.

(a) Terms of the Equipment Loan.

The Company may borrow under the Equipment Loan on or before April 30, 2022 in the aggregate principal amount of up to \$3,000 (the "Equipment Loan Commitment"). The Equipment Loan Commitment will automatically terminate upon the earlier of (x) any funding of the maximum amount of the Equipment Loan Commitment and (y) 5:00 p.m., Indianapolis time, on April 30, 2022. Until April 30, 2022, the Company must pay interest on the amount outstanding under the Equipment Loan at a fixed annual rate of 4.00%. On April 30, 2022, all amounts outstanding under the Equipment Loan will be converted to a term loan and repaid monthly in installments of principal based on a five (5) year amortization schedule together with the interest that will accrue thereon. A final installment representing the entire unpaid principal of the Equipment Loan, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, will be due and payable on April 30, 2027. Advances under the Equipment Loan will be used to fund equipment needs of the Company as approved by FIB.

(b) Terms of the Revolving Facility.

The Revolving Facility provides a line of credit for up to \$5,000, which the Company may borrow from time to time, subject to the terms of the Credit Agreement, including as may be limited by the amount of the Company's outstanding eligible receivables. The Revolving Facility requires monthly accrued and unpaid interest payments only until maturity at a floating per annum rate equal to the greater of (a) 4.00%, or (b) the Prime Index (as defined in the Credit Agreement). The Company did not have an outstanding balance on the Revolving Facility as of June 30, 2021. Advances under the Revolving Facility will be used for general working capital purposes of the Company.

(c) Terms of the Term Loans:

Loan Name	Principal Amount as of date of Credit Agreement April 30, 2021 (000)	Annual Interest Rate	Monthly Payment Amount (000)	Maturity Date	Use of Proceeds
Term Loan 1	\$ 3,980	5.20 %	\$ 36	March 28, 2025	Funded expansion of building on real property in Mount Vernon, IN
Term Loan 2	\$ 3,571	5.06 %	\$ 78	July 2, 2023	Funded a portion of the cash consideration for the Seventh Wave Laboratories acquisition
Term Loan 3	\$ 1,076	5.20 %	\$ 32	March 28, 2025	Funded equipment needs associated with expansion of real property in Mount Vernon, IN
Term Loan 4	\$ 1,001	4.63 %	\$ 20	November 1, 2025	Funded the cash consideration for the Smithers Avanza acquisition
Term Loan 5	\$ 810	4.00 %	\$ 17	June 30, 2025	Funded certain capital expenditures
Term Loan 6	\$ 2,865	4.25 %	\$ 56	December 31, 2025	Funded certain capital expenditures
Term Loan 7	\$ 1,263	4.00 %	\$ 28	June 1, 2025	Financed aspects of the Pre-Clinical Research Services and related real property acquisitions
Term Loan 8	\$ 1,853	4.00 %	\$ 12	December 1, 2024	Financed aspects of the Pre-Clinical Research Services and related real property acquisitions
Term Loan 9	\$ 10,000	3.85 %	\$ 184 <sup>(a)</sup>	April 30, 2026	Funded a portion of the cash consideration of the Bolder BioPATH merger
Term Loan 10	\$ 5,000	3.85 %	\$ 92 <sup>(a)</sup>	April 30, 2026	Funded a portion of the cash consideration of the HistoTox Labs acquisition
Term Loan 11	\$ 3,622	3.99 %	\$ 33	June 23, 2022	Refinanced debt with The Huntington Bank for general business purposes
Term Loan 12	\$ 4,832 <sup>(b)</sup>	3.85 %	\$ 10 <sup>(c)</sup>	December 26, 2026	Financed the acquisition of the St. Louis facility and associated expansion

<sup>(a)</sup> See Mandatory Prepayments information below.

<sup>(b)</sup> Principal amount as of May 26, 2021.

<sup>(c)</sup> The monthly payment amount increases to \$29 on January 1, 2022.

(d) Mandatory Prepayments.

Commencing with the fiscal year ending September 30, 2021 and for each fiscal year thereafter until the Term Loan 9 and/or Term Loan 10, in each case, are paid in full, the Company is required to prepay Term Loan 9 and Term Loan 10 on a pro rata basis on the following January 31<sup>st</sup>, in an amount equal to 50% of the excess cash flow of the Company (as defined in the Credit Agreement) for such fiscal year (in each case, an “Excess Cash Flow Payment”), provided that, for the fiscal year ending September 30, 2021, the Excess Cash Flow Payment, if any, will be calculated only for the period from April 30, 2021 through September 30, 2021. Excess Cash Flow will be calculated for each fiscal year based on (a) the Company’s adjusted EBITDA (as defined in the Credit Agreement), minus (b) cash interest expense, minus (c) cash taxes paid or cash distributions made for payment of taxes, minus (d) principal payments paid in respect of long-term indebtedness (excluding any principal reduction on Term Loan 9 or Term Loan 10, in each case, with respect to Excess Cash Flow and excluding principal payments on the Revolving Facility), minus (e) capital expenditures not funded by advances under the Equipment Loan as specified under the Credit Agreement.

*Acquisition-related Debt*

In addition to the indebtedness under the Credit Agreement, certain of the Company’s subsidiaries have issued unsecured notes as partial payment of the purchase prices of certain acquisitions as described herein. Each of these notes is subordinated to the indebtedness under the Credit Agreement.

As part of the Smithers Avanza acquisition, the Company’s BASi Gaithersburg subsidiary issued an unsecured subordinated promissory note payable to the Smithers Avanza seller in the initial principal amount of \$810, which is guaranteed by the Company. The promissory note bears interest at a rate of 6.5% per annum with monthly payments of principal and interest and a maturity date of May 1, 2022 and is guaranteed by the Company.

As part of the PCRS Acquisition, the Company’s Bronco Research Services subsidiary issued an unsecured subordinated promissory note payable to the PCRS seller in the initial principal amount of \$800. The promissory note bears interest at a rate of 4.5% per annum with monthly payments of principal and interest and a maturity date of December 1, 2024.

As part of the acquisition of Boulder BioPATH, the Company’s Inotiv Boulder subsidiary, Inotiv Boulder, LLC, issued unsecured subordinated promissory notes payable to the former shareholders of Boulder BioPath in an aggregate principal amount of \$1,500. The promissory notes bear interest at a rate of 4.5% per annum, with monthly payments of principal and interest and a maturity date of May 1, 2026.

#### PPP Loan

On April 23, 2020, the Company was granted a loan (the “PPP Loan”) from Huntington National Bank in the aggregate amount of \$5,051, pursuant to the Paycheck Protection Program under Division A, Title I of the CARES Act, which was enacted March 27, 2020. The terms of the PPP Loan call for repayment of the principal and accrued interest under the Loan in eighteen installments of \$283 beginning on November 16, 2020 and continuing monthly until the final payment is due on April 16, 2022. However, the bank is not requiring payments of principal or interest pending the loan forgiveness decision. The Company applied for forgiveness of the loan in the amount of \$4,851, and on July 16, 2021, received notice from Huntington Bank that the SBA had approved the application for forgiveness of the PPP Loan in the full amount requested.

Long term debt as of June 30, 2021 and September 30, 2020 is detailed in the table below.

	As of:	
	June 30, 2021	September 30, 2020
Term Loan #1	\$ 3,943	\$ 4,230
Term Loan #2	3,446	4,004
Term Loan #3	1,031	1,266
Term Loan #4	969	1,115
Term Loan #5	781	920
Term Loan #6	2,728	—
Term Loan #7	1,216	1,425
Term Loan #8	1,842	1,891
Term Loan #9	9,850	—
Term Loan #10	4,925	—
Term Loan #11	3,559	3,748
Term Loan #12	2,088	—
Subtotal Term Loans	36,378	18,599
Seller Note – Bolder BioPath	1,500	—
Seller Note – Smithers Avanza	385	650
Seller Note – Preclinical Research Services	702	752
Paycheck protection program loan	5,051	5,051
	44,016	25,052
Less: Current portion	(14,752)	(5,991)
Less: Debt issue costs not amortized	(564)	(235)
Total Long-term debt	<u>\$ 28,700</u>	<u>\$ 18,826</u>

## 9. ACCRUED EXPENSES

As part of a fiscal 2012 restructuring, the Company accrued for lease payments at the cease use date for its United Kingdom facility and have considered free rent, sublease rentals and the number of days it would take to restore the space to its original condition prior to improvements. Based on these matters, the Company had a \$1,117 reserve for lease related costs and for legal and professional fees and other costs to remove improvements previously made to the facility. During the nine months ended June 30, 2021, the Company released all of the remaining reserve for lease related liabilities. At June 30, 2021 and September 30, 2020, respectively, the Company had \$0 and \$168 reserved for the remaining liability. The reserve was classified as a current liability on the condensed consolidated balance sheets as of September 30, 2020.

## 10. NEW ACCOUNTING PRONOUNCEMENTS

In June 2016, the FASB issued ASU 2016-13 “Financial Instruments (Topic 326) Measurement of Credit Losses on Financial Instrument” “CECL”). ASU 2016-13 requires an allowance for expected credit losses on financial assets to be recognized as early as day one of the instrument. This ASU departs from the incurred loss model which means the probability threshold is removed. It considers more forward-looking information and requires the entity to estimate its credit losses as far as it can reasonably estimate. This update became effective for the Company on October 1, 2020. The adoption of this guidance did not have a material impact on the Company’s consolidated financial statements.

## 11. BUSINESS COMBINATIONS (Restated)

The Company accounts for acquisitions in accordance with guidance found in ASC 805, Business Combinations. The guidance requires consideration given, including contingent consideration, assets acquired, and liabilities assumed to be valued at their fair market values at the acquisition date. The guidance further provides that: (1) in-process research and development will be recorded at fair value as an indefinite-lived intangible asset; (2) acquisition costs will generally be expensed as incurred, (3) restructuring costs associated with a business combination will generally be expensed subsequent to the acquisition date; and (4) changes in deferred tax asset valuation allowances and income tax uncertainties after the acquisition date generally will affect income tax expense. ASC 805 requires that any excess of purchase price over fair value of assets acquired, including identifiable intangibles and liabilities assumed, be recognized as goodwill.

### PCRS acquisition

#### *Overview*

On November 8, 2019, the Company and Bronco Research Services LLC, a wholly owned subsidiary of the Company (the “PCRS Purchaser”), entered into an Asset Purchase Agreement (the “Purchase Agreement”) with Pre-Clinical Research Services, Inc., a Colorado corporation (the “PCRS Seller”), and its shareholder. Pursuant to the Purchase Agreement, on December 1, 2019, the Company indirectly acquired (the “PCRS Acquisition”) substantially all of the assets of PCRS Seller used or useful by PCRS Seller in connection with PCRS Seller's provision of GLP and non-GLP preclinical testing for the pharmaceutical and medical device industries. The total consideration for the PCRS Acquisition was \$5,857, which consisted of \$1,500 in cash, subject to certain adjustments, 240 of the Company’s common shares valued at \$1,133 using the closing price of the Company’s common shares on November 29, 2019 and an unsecured promissory note in the initial principal amount of \$800 made by PCRS Purchaser. The promissory note bears interest at 4.5%. The Company also purchased certain real property located in Fort Collins, Colorado, comprising the main facility for the PCRS Seller’s business and additional property located next to the facility available for future expansion, for \$2,500. The Company funded the cash portion of the purchase price for the PCRS Acquisition with cash on hand and the net proceeds from its credit arrangements with FIB. As contemplated by the Purchase Agreement, the Company also entered into a lease arrangement for an ancillary property used by Seller’s business, located in Livermore, Colorado.

## Accounting for the Transaction

Results are included in the Company's results from the acquisition date of December 1, 2019.

The Company's allocation of the \$5,857 purchase price to PCRS Purchaser's tangible and identifiable intangible assets acquired and liabilities assumed, based on their estimated fair values as of December 1, 2019, is included in the table below. Goodwill, which is derived from the enhanced scientific expertise, expanded client base and our ability to provide broader service solutions through a comprehensive portfolio, is recorded based on the amount by which the purchase price exceeds the fair value of the net assets acquired and is deductible for tax purposes. The purchase price allocation as of June 30, 2021 is as follows:

	Allocation as of June 30, 2021
Assets acquired and liabilities assumed:	
Receivables	\$ 578
Property and equipment	2,836
Unbilled receivables	162
Prepaid expenses	27
Intangible assets	2,081
Goodwill	751
Accounts payable	(109)
Accrued expenses	(118)
Customer advances	(351)
	<u>\$ 5,857</u>

The allocation of the purchase price is based on valuations performed to determine the fair value of such assets and liabilities as of the acquisition date. Goodwill from this transaction is allocated to the Company's Services segment. PCRS Purchaser recorded revenues of \$5,191 and net income of \$117 for the nine month period ending June 30, 2021.

### HistoTox Labs acquisition

#### *Overview*

On April 30, 2021, the Company completed the acquisition of HistoTox Labs, Inc. ("HistoTox Labs") in a cash transaction. HistoTox Labs is a provider of services in connection with non-clinical consulting, laboratory and strategic support services and products related to routine and specialized histology, immunohistology, histopathology and image analysis/digital pathology. Consideration for the HistoTox Labs Acquisition consisted of \$22,321 in cash. The purchase price is preliminary and subject to working capital and customary purchase price adjustments under the Purchase Agreement.

We recognized transaction costs related to the acquisition of HistoTox Labs of \$449 and \$560 for the three and nine months ended June 30, 2021. These costs were associated with legal and professional services related to the acquisition and are reflected within general and administrative expenses in our condensed consolidated statement of operations.

HistoTox Labs and Bolder BioPATH (discussed below) were combined into one business unit and recorded combined revenues of \$4,251 and combined net income of \$585 for the three and nine month periods ending June 30, 2021.

The valuation of assets acquired and liabilities assumed has not yet been finalized as of June 30, 2021. The purchase price allocation is preliminary and subject to change, including the valuation of property and equipment, intangible assets, income taxes and goodwill, among other items. The amounts recognized will be finalized as the information necessary to complete the analysis is obtained, but no later than one year after the acquisition date. Finalization of the valuation during the measurement period could result in a change in the amounts recorded for the acquisition date fair value.

The following table summarizes the preliminary fair value of assets acquired and liabilities assumed as of the acquisition date:

	<b>Preliminary Allocation as of June 30, 2021</b>
Assets acquired and liabilities assumed:	
Receivables	1,020
Prepaid expenses	40
Operating lease ROU	2,239
Property and equipment	4,021
Intangible assets	8,500
Other Assets	35
Goodwill	9,386
Accounts payable	(128)
Customer advances	(553)
Operating lease liability	(2,239)
	<u>\$ 22,321</u>

Property and equipment is mostly composed of equipment (including lab equipment, furniture and fixtures, and computer equipment). The fair value of property and equipment was determined using a combination of cost and market-based methodologies. The fair value of intangible assets as of June 30, 2021 is based on preliminary assumptions which are subject to change as we complete our valuation procedures.

Intangible assets primarily relate to customer relationships and a non-compete agreement. The acquired definite-lived intangible assets are being amortized over a weighted-average estimated useful life of approximately 8 years for customer relationships and 5 years for the non-compete agreement on a straight-line basis. The estimated fair values of identifiable intangible assets were determined using the "income approach," which is a valuation technique that provides an estimate of the fair value of an asset based on market participant expectations of the cash flows an asset would generate over its remaining useful life. Some of the significant assumptions inherent in the development of these asset valuations include the estimated net cash flows for each year for each asset or product (including revenues, cost of services, marketing, selling and administrative expenses, and contributory asset charges), the appropriate discount rate necessary to measure the risk inherent in each future cash flow stream, the life cycle of each asset, the potential regulatory and commercial success risk, and competitive trends impacting the asset and each cash flow stream, as well as other factors. The fair value of intangible assets as of June 30, 2021 is based on preliminary assumptions which are subject to change as we complete our valuation procedures.

Goodwill, which is derived from the enhanced scientific expertise, expanded client base and our ability to provide broader service solutions through a comprehensive portfolio, is recorded based on the amount by which the purchase price exceeds the fair value of the net assets acquired and \$10,804 is deductible for tax purposes. Goodwill from this transaction is allocated to the Company's Services segment. Goodwill is reviewed for impairment at least annually and when certain impairment indicators are present. As of June 30, 2021, there were no goodwill impairment losses.

### Bolder BioPATH acquisition

#### *Overview*

On May 3, 2021, the Company completed the acquisition of Bolder BioPATH in a merger of Bolder BioPATH with a wholly owned subsidiary of the Company. Bolder BioPATH is a provider of services specializing in in vivo models of rheumatoid arthritis, osteoarthritis, and inflammatory bowel disease as well as other autoimmune and inflammation models. Consideration for the Bolder BioPATH acquisition consisted of (i) \$18,500 in cash, subject to customary purchase price adjustments and inclusive of \$1,250 being held in escrow for purposes of securing any amounts payable by the selling parties on account of indemnification obligations, purchase price adjustments, and other amounts payable under the merger agreement, (ii) 1,588 of the Company's common shares valued at \$34,452 using the closing price of the Company's common shares on May 3, 2021 and (iii) seller notes in an aggregate principal amount of \$1,500.

We recognized transaction costs related to the acquisition of Bolder BioPATH of \$450 and \$568 for the three and nine months ended June 30, 2021. These costs were associated with legal and professional services related to the acquisition and are reflected within general and administrative expenses in our condensed consolidated statement of operations.

The valuation of assets acquired and liabilities assumed has not yet been finalized as of June 30, 2021. The purchase price allocation is preliminary and subject to change, including the valuation of property and equipment, intangible assets, income taxes and goodwill, among other items. The amounts recognized will be finalized as the information necessary to complete the analysis is obtained, but no later than one year after the acquisition date. Finalization of the valuation during the measurement period could result in a change in the amounts recorded for the acquisition date fair value.

The following table summarizes the preliminary fair value of assets acquired and liabilities assumed as of the acquisition date:

	<b>Preliminary Allocation as of June 30, 2021</b>
Assets acquired and liabilities assumed:	
Cash and cash equivalents	\$ 124
Receivables	2,278
Unbilled receivables	1,867
Prepaid expenses	103
Operating lease ROU	2,750
Property and equipment	6,609
Intangible assets	12,500
Other assets	70
Goodwill	36,863
Accounts payable	(93)
Accrued expenses	(279)
Deferred revenue	(723)
Deferred tax liability	(4,867)
Operating lease liability	(2,750)
	<u>\$ 54,452</u>

Property and equipment is mostly composed of equipment (including lab equipment, furniture and fixtures, and computer equipment). The fair value of property and equipment was determined using a combination of cost and market-based methodologies. The fair value of intangible assets as of June 30, 2021 is based on preliminary assumptions which are subject to change as we complete our valuation procedures.

Intangible assets primarily relate to customer relationships. The acquired definite-lived intangible assets are being amortized over a weighted-average estimated useful life of approximately 8 years on a straight-line basis. The estimated fair values of identifiable intangible assets were determined using the "income approach," which is a valuation technique that provides an estimate of the fair value of an asset based on market participant expectations of the cash flows an asset would generate over its remaining useful life. Some of the significant assumptions inherent in the development of these asset valuations include the estimated net cash flows for each year for each asset or product (including revenues, cost of services, marketing, selling and administrative expenses, and contributory asset charges), the appropriate discount rate necessary to measure the risk inherent in each future cash flow stream, the life cycle of each asset, the potential regulatory and commercial success risk, and competitive trends impacting the asset and each cash flow stream, as well as other factors. The fair value of intangible assets as of June 30, 2021 is based on preliminary assumptions which are subject to change as we complete our valuation procedures.

Goodwill, which is derived from the enhanced scientific expertise, expanded client base and our ability to provide broader service solutions through a comprehensive portfolio, is recorded based on the amount by which the purchase price exceeds the fair value of the net assets acquired and none is deductible for tax purposes. Goodwill from this transaction is allocated to the Company's Services segment. Goodwill is reviewed for impairment at least annually and when certain impairment indicators are present. As of June 30, 2021, there were no goodwill impairment losses.

### *Pro Forma Results*

The Company's unaudited pro forma results of operations for the three and nine months ended June 30, 2021 and June 30, 2020, assuming the PCRS and HistoTox Labs acquisitions and the merger of Bolder BioPATH had occurred as of October 1, 2019 are presented for comparative purposes below. These amounts are based on available information of the results of operations of the PCRS, HistoTox Labs, and Bolder BioPATH operations prior to the acquisition date and are not necessarily indicative of what the results of operations would have been had the acquisitions and the merger been completed on October 1, 2019.

The unaudited pro forma information is as follows:

	<b>Three Months Ended June 30, 2021</b>	<b>Three Months Ended June 30, 2020</b>	<b>Nine Months Ended June 30, 2021</b>	<b>Nine Months Ended June 30, 2020</b>
Total revenues	\$ 24,786	\$ 21,448	\$ 72,789	\$ 62,661
Net income (loss)	(1,847)	5,242	(428)	5,863

## **12. REVENUE RECOGNITION**

In accordance with Accounting Standards Codification ("ASC") 606, the Company disaggregates its revenue from clients into three revenue streams, service revenue, product revenue, and royalties. At contract inception the Company assesses the services promised in the contract with the clients to identify performance obligations in the arrangements.

### *Service revenue*

The Company enters into contracts with clients to provide drug discovery and development services with payments based on mainly fixed-fee arrangements. The Company also offers archive storage services to its clients.

The Company's fixed fee arrangements may involve nonclinical research services (toxicology, pathology, pharmacology), bioanalytical, and pharmaceutical method development and validation, nonclinical research services and the analysis of bioanalytical and pharmaceutical samples. For bioanalytical and pharmaceutical method validation services and nonclinical research services, revenue is recognized over time using the input method based on the ratio of direct costs incurred to total estimated direct costs. For contracts that involve in-life study conduct, method development or the analysis of bioanalytical and pharmaceutical samples, revenue is recognized over time when samples are analyzed or when services are performed. The Company generally bills for services on a milestone basis. These contracts represent a single performance obligation and due to the Company's right to payment for work performed, revenue is recognized over time. Research services contract fees received upon acceptance are deferred until earned and classified within customer advances on the condensed consolidated balance sheets. Unbilled revenues represent revenues earned under contracts in advance of billings.

Archive services provide climate controlled archiving for client's data and samples. The archive revenue is recognized over time, generally when the service is provided. These arrangements include one performance obligation. Amounts related to future archiving or prepaid archiving contracts for clients where archiving fees are billed in advance are accounted for as deferred revenue and recognized ratably over the period the applicable archive service is performed.

### *Product revenue*

The Company's products can be sold to multiple clients and have alternative use. Both the transaction sales price and shipping terms are agreed upon in the client order. For these products, all revenue is recognized at a point in time, generally when title of the product and control is transferred to the client based upon shipping terms. These arrangements typically include only one performance obligation. Certain products have maintenance agreements available for clients to purchase. These are typically billed in advance and are accounted for as deferred revenue, are recognized ratably over the applicable maintenance period and are included in customer advances on the condensed consolidated balance sheet.

## Royalty revenue

The Company has an agreement with Teva Pharmaceuticals (formerly Biocraft Laboratories, Inc.) which manufactures and markets pharmaceutical products. The Company receives royalties in accordance with sales of certain pharmaceuticals that Teva manufactures and sells. The royalties are received on a quarterly basis and the revenue is recognized over the quarter. Royalty revenue is included in service revenue on the condensed consolidated statement of operations. Total revenue recognized was \$102 and \$131 in the three months ended June 30, 2021 and 2020, respectively. Total revenue recognized was \$255 and \$567 in the nine months ended June 30, 2021 and 2020, respectively.

The following table presents changes in the Company's contract assets and contract liabilities for the nine months ended June 30, 2021.

	Balance at September 30, 2020	Additions	Deductions	Balance at June 30, 2021
Contract Assets: Unbilled receivables	\$ 1,879	\$ 3,963	\$ (1,848)	\$ 3,994
Contract liabilities: Customer advances	\$ 11,392	\$ 125,225	\$ (116,648)	\$ 19,969

## 13. LEASES

The Company records a right-of-use ("ROU") asset and lease liability for substantially all leases for which it is a lessee, in accordance with ASU 842. Leases with an initial term of 12 months or less are not recorded on the balance sheet. The Company recognizes lease expense for the leases on a straight-line basis over the lease term. At inception of a contract, the Company considers all relevant facts and circumstances to assess whether or not the contract represents a lease by determining whether or not the contract conveys the right to control the use of an identified asset, either explicit or implicit, for a period of time in exchange for consideration.

The Company has various operating and finance leases for facilities and equipment. Facilities leases provide office, laboratory, warehouse, or land, the company uses to conduct its operations. Facilities leases range in duration from two to ten years, with either renewal options for additional terms as the initial lease term expires, or purchase options. Facilities leases are considered as either operating or financing leases.

Equipment leases provide for office equipment, laboratory equipment or services the Company uses to conduct its operations. Equipment leases range in duration from 30 to 60 months, with either subsequent annual renewals, additional terms as the initial lease term expires, or purchase options.

Right-of-use lease assets and lease liabilities that are reported in the Company's condensed consolidated balance sheets are as follows:

	As of June 30, 2021	As of September 30, 2020
Operating right-of-use assets, net	\$ 8,695	\$ 4,001
Current portion of operating lease liabilities	1,916	866
Long-term operating lease liabilities	6,884	3,344
Total operating lease liabilities	\$ 8,800	\$ 4,210
Finance right-of-use assets, net	\$ 66	\$ 4,778
Current portion of finance lease liabilities	29	4,728
Long-term finance lease liabilities	39	44
Total finance lease liabilities	\$ 68	\$ 4,772

During the three and nine months ended June 30, 2021, the Company had operating lease amortizations of \$292 and \$736, respectively, and had finance lease amortization of \$25 and \$97, respectively. Finance lease interest recorded in the three and nine months ended June 30, 2021 was \$46 and \$183, respectively.

One of the operating leases contains a variable lease component based on revenue for one component of the Company. The total variable payments for this lease for the three and nine months ended June 30, 2021 were \$31 and \$177, respectively.

Lease expense for lease payments is recognized on a straight-line basis over the lease term. The components of lease expense related to the Company's leases for the three and nine months ended June 30, 2021 were:

	Three months ended June 30, 2021	Nine months ended June 30, 2021
Operating lease costs:		
Fixed operating lease costs	\$ 292	\$ 736
Short-term lease costs	32	66
Lease income	(159)	(477)
Finance lease costs:		
Amortization of right-of-use asset expense	25	97
Interest on finance lease liability	46	183
Total lease cost	<u>\$ 236</u>	<u>\$ 605</u>

The Company serves as lessor to a lessee in one facility through the end of calendar year 2024. The gross rental income and underlying lease expense are presented gross in the Company's condensed consolidated balance sheets. The Company received rental income of \$159 and \$477 for the three and nine months ended June 30, 2021, respectively.

Supplemental cash flow information related to leases was as follows:

	Three months ended June 30, 2021	Nine months ended June 30, 2021
Cash flows included in the measurement of lease liabilities:		
Operating cash flows from operating leases	\$ 346	\$ 867
Operating cash flows from finance leases	45	183
Finance cash flows from finance leases	71	277
Non-cash lease activity:		
Right-of-use assets obtained in exchange for new operating lease liabilities	\$ 4,990	\$ 6,165
Right-of-use assets obtained in exchange for new finance lease liabilities	8	17

The weighted average remaining lease term and discount rate for the Company's operating and finance leases as of June 30, 2021 were:

	As of June 30, 2021
Weighted-average remaining lease term (in years)	
Operating lease	4.91
Finance lease	3.43
Weighted-average discount rate (in percentages)	
Operating lease	4.46 %
Finance lease	4.86 %

Lease duration was determined utilizing renewal options that the Company is reasonably certain to execute.

As of June 30, 2021, maturities of operating and finance lease liabilities for each of the following five years and a total thereafter were as follows:

	Operating Leases	Finance Leases
2021 (remainder of fiscal year)	\$ 496	\$ 6
2022	2,001	24
2023	2,022	18
2024	1,998	18
2025	1,494	7
Thereafter	1,800	1
Total minimum future lease payments	<u>9,811</u>	<u>74</u>
Less interest	<u>(1,011)</u>	<u>(6)</u>
Total lease liability	<u>8,800</u>	<u>68</u>

#### 14. SUBSEQUENT EVENTS

On July 9, 2021, the Company closed a Purchase Agreement (the "Purchase Agreement") between BioReliance Corporation, a Delaware corporation ("BioReliance") and BASi Gaithersburg LLC ("BASi Gaithersburg"), an Indiana limited liability company and wholly owned subsidiary of the Company. The acquisition related to certain assets of BioReliance in order to expand our genetic toxicology offering to build and lead the genetic toxicology business. Consideration for the acquisition consisted of sales royalties of 10% in connection with future net sales related to the acquisition from the date of the acquisition through December 31, 2023.

On July 15, 2021, the Company announced the acquisition of laboratory instrumentation to accelerate the startup and development of laboratory services pursuing cell and gene therapy as well as traditional biotherapeutics and immunotherapies. We acquired the assets for approximately \$1,300.

On July 16, 2021, the Company received notice from Huntington Bank that the SBA had approved the Company's application for forgiveness of its PPP Loan in the amount of \$4,851.

On August 2, 2021, the Company closed the purchase of all of the outstanding equity interest in Gateway Pharmacology Laboratories LLC, a Missouri company engaged in the business of providing drug metabolism and pharmacokinetics (DMPK) technology and capability, as well as a new cell and molecular biology suite capable of delivering in vitro solutions in pharmacology and toxicology early in drug discovery. Consideration for the acquisition consisted of (i) \$1,400 in cash, subject to customary purchase price adjustments, and (ii) 45,323 of the Company's common shares valued at \$1,250.

## **ITEM 2 - MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS**

*The Management's Discussion and Analysis of Financial Condition and Results of Operations set forth in this Item 2 has been revised to reflect the restatement occurring subsequent to the filing of the original Form 10-Q.*

This report contains statements that constitute forward-looking statements within the meaning of the Private Securities Litigation Reform Act of 1995. Those statements appear in a number of places in this Report and may include, but are not limited to, statements regarding our intent, belief or current expectations with respect to (i) our strategic plans; (ii) trends in the demand for our services and products; (iii) trends in the industries that consume our services and products; (iv) our ability to develop or acquire new services and products; (v) our ability to make capital expenditures and finance operations; (vi) global economic conditions, especially as they impact our markets; (vii) our cash position; (viii) our ability to successfully integrate the operations and personnel related to recent acquisitions; (ix) our ability to effectively manage current expansion efforts or any future expansion or acquisition initiatives undertaken by us; (x) our ability to develop and build infrastructure and teams to manage growth and projects; (xi) our ability to continue to retain and hire key talent; (xii) our ability to market our services and products under our corporate name and relevant brand names; (xiii) our ability to service our outstanding indebtedness, (xiv) our expectations regarding the volume of new bookings, pricing, gross profit margins and liquidity, (xv) our ability to manage recurring and non-recurring costs, (xvi) the impact of COVID-19 on the economy, demand for our services and products and our operations, including the measures taken by governmental authorities to address the pandemic, which may precipitate or exacerbate other risks and/or uncertainties, and additional risks set forth in our filings with the Securities and Exchange Commission (the "SEC"). Actual results may differ materially from those in the forward-looking statements as a result of various factors, including but not limited to the risk factors disclosed in our reports with the SEC, many of which are beyond our control.

In addition, we have based these forward-looking statements on our current expectations and projections about future events. Although we believe that the assumptions on which the forward-looking statements contained herein are based are reasonable, actual events may differ from those assumptions, and as a result, the forward-looking statements based upon those assumptions may not accurately project future events. The following discussion and analysis should be read in conjunction with the unaudited condensed consolidated financial statements and notes thereto included or incorporated by reference elsewhere in this Report. In addition to the historical information contained herein, the discussions in this Report may contain forward-looking statements that may be affected by risks and uncertainties, including those discussed in Item 1A, Risk Factors contained in our annual report on Form 10-K for the fiscal year ended September 30, 2020. Our actual results could differ materially from those discussed in the forward-looking statements.

Amounts in this Item 2 are in thousands, unless otherwise indicated.

### **Recent Developments and Executive Summary**

During recent periods, we have undertaken significant internal and external growth initiatives to reposition our Company and provide a platform for future growth. Our growth initiatives include (1) acquisitions, (2) expansion of existing and acquired businesses, (3) startup of new services. Through June 30, 2021, we acquired the business of Seventh Wave Laboratories, LLC, in July 2018 (the "Seventh Wave Acquisition"), acquired the toxicology business of Smithers Avanza on May 1, 2019 (the "Smithers Avanza Acquisition"), acquired the preclinical testing business of Pre-Clinical Research Services, as well as related real property, on December 1, 2019 (the "PCRS Acquisition"), acquired the business of HistoTox Labs on April 30, 2021 (the "HistoTox Acquisition") and completed a merger of one of its wholly owned subsidiaries with Bolder BioPATH on May 3, 2021 (the "Merger"). Following the end of the quarter, we completed the purchase of all of the outstanding equity interests in Gateway Pharmacology Laboratories on August 2, 2021. We undertook an expansion of our facilities in Evansville, Indiana, which we began using for operations in March of 2020, we recently completed capital improvements to our Ft. Collins facility to facilitate growth, and in May 2021 we announced the buyout of our St. Louis facility with the build-out of an additional 20,000 square feet of wet laboratory and office space. We announced new service offerings which we are building internally and start up operations such as: clinical pathology; SEND data reporting; cardiovascular safety pharmacology; genetic toxicology; biotherapeutics; and medical device histology and pathology. On April 23, 2021, we completed a public offering of our common stock and obtained funding to support these initiatives and other improvements to our laboratories, facilities and equipment in order to support future growth and enhance our scientific capabilities, client service offerings and client experiences. In addition, we have made other significant investments in upgrading facilities and equipment and filled critical leadership and scientific positions.

Over the last year, we have also improved our infrastructure and platform to support future growth and additional potential acquisitions. These improvements included establishing our new corporate name Inotiv, Inc., investments in our information technology platforms, building program management functions to enhance management and communication with clients and multi-site programs, further enhancing client services and improving the client experience. We believe these internal infrastructure initiatives, investments, acquisitions, mergers and recruiting efforts, combined with our existing team and the continuing development of our sales and marketing team, have led and will continue to lead to growth in revenue and the ability to improve the service offerings to our clients. We recognize the recent investments in growth, continuing development of a strong leadership team, improving our platform, recruiting new employees, enhancing and building our scientific strength and adding services are critical to meeting the future expectations of our clients, employees and shareholders. We believe the actions taken and investments made in recent periods form a solid foundation upon which we can build.

#### **Significant Accomplishments during nine months ended June 30, 2021**

- Announcement of an initiative to broaden clinical pathology service offerings
- Appointment of Greg Beattie as Chief Operating Officer
- Investments in laboratory infrastructure, data and study management technologies and internal expertise for SEND (Standard for Exchange of Nonclinical Data) capabilities
- Investments in additional vivarium capacity at facility in West Lafayette, IN
- Announcement for plans to expand offerings to include cardiovascular safety pharmacology
- Changed corporate name to Inotiv, Inc.
- Entered into a partnership with PhoenixBio Co., Ltd. to expand discovery pharmacology offering
- Acquired assets of HistoTox Labs
- Acquired Bolder BioPath
- Completed an underwritten public offering of 3,044 common shares at a price to the public of \$17.00 per share, resulting in net proceeds to the Company of approximately \$49,000, after deducting the underwriting discount and estimated offering expenses.
- Obtained \$28,000 in additional debt financing from First Internet Bank of Indiana.
- Announced the purchase of the St. Louis facility and plans to expand capacity there
- Joined the broad-market Russell 3000® Index and Russell 2000® Index
- Broadened pathology services to include medical device pathology and hired Nicolette Jackson to lead the medical device pathology effort

#### **Events subsequent to June 30, 2021**

- Acquired certain assets from MilliporeSigma's BioReliance portfolio to expand genetic toxicology offering
- Acquired laboratory instrumentation for discovery and development of novel therapies
- Acquired Gateway Pharmacology Laboratories, LLC to extend an array of in vivo capability and integrated laboratory support services to include cardiovascular and renal pharmacology

Our financial results for the three months ended June 30, 2021 were positively impacted by increases in sales and gross margins attributable to internal growth the Company has experienced in the Service business as well as the acquisitions of HistoTox Labs and Bolder BioPATH. During the quarter ended June 30, 2021, we saw an increase in operating expenses as a percentage of revenue compared to the same quarter in the prior year as we continued to build infrastructure for growth, which included additional headcount, recruiting and relocation expenses and investments in building out new service offerings. The financial results were positively impacted by the Products segment of the business as expense reductions were implemented in last half of fiscal year 2020 which improved margins.

Our team has implemented measures to promote a safe working environment and mitigate risk related to COVID-19, including allowing for work-from-home arrangements where possible, while continuing to support each other and our clients. Among other initiatives related to COVID-19, the Company applied for and accepted funds from the SBA Payroll Protection Program (“PPP”) as part of the CARES Act. The PPP loan was received in April 2020 in the amount of \$5,051. The funds were used over the eight weeks following the receipt of the funds for payroll, utility and rent expenses, in step with our business continuity measures and as allowed under the PPP. The Company applied for forgiveness of the PPP loan in the amount of \$4,851, which represents qualified expenses. The PPP debt is recorded as a liability on the balance sheet. On July 16, 2021, the Company received notice from Huntington Bank that the SBA had approved the Company’s application for forgiveness of its PPP Loan in the amount of \$4,851.

We believe that the HistoTox Labs Acquisition and the Merger, along with the remaining net proceeds from our recent public offering and the refinancing of our indebtedness with First Internet Bank to be used for internal expansion initiatives, will drive significant long-term value for our customers and shareholders.

## **Business Overview**

The Company provides drug discovery and development services to the pharmaceutical, chemical, and medical device industries, and sells analytical instruments to the pharmaceutical development and contract research industries. Our mission is to provide drug and product developers with superior scientific research and innovative analytical instrumentation in order to bring revolutionary new drugs and products to market quickly and safely. Our strategy is to provide services that will generate high-quality and timely data in support of new drug and product approval or expand their use. Our clients and partners include pharmaceutical, biotechnology, biomedical device, academic and government organizations. We provide innovative technologies and products and a commitment to quality to help clients and partners accelerate the development of safe and effective drugs and products and maximize the returns on their research and development investments. We believe that we offer an efficient, variable-cost alternative to our clients’ internal drug and product development programs. Outsourcing development work to reduce overhead and speed product approvals through the Food and Drug Administration (“FDA”) and other regulatory authorities is an established alternative to in-house product development efforts. We derive our revenues from sales of our research services and instruments, both of which are focused on evaluating drug and product safety and efficacy. The Company has been involved in the research of drug and products to treat diseases in numerous therapeutic areas for over 45 years since its formation as a corporation organized in Indiana in 1974.

We support both the non-clinical and clinical development needs of researchers and clinicians for primarily small molecule drug candidates, but also including biotherapeutics and devices. We believe that our scientists have the skills in analytical instrumentation development, chemistry, computer software development, histology, pathology, physiology, medicine, surgery, analytical chemistry, drug metabolism, pharmacokinetics, and toxicology to make the services and products we provide increasingly valuable to our current and potential clients. Our principal clients are scientists engaged in analytical chemistry, drug safety evaluation, clinical trials, drug metabolism studies, pharmacokinetics and basic research from small start-up biotechnology companies to some of the largest global pharmaceutical companies. We are committed to bringing scientific expertise, quality and speed to every drug discovery and development program to help our clients develop safe and effective life-changing therapies.

Developments within the industries we serve have a direct, and sometimes material, impact on our operations. Currently, many large pharmaceutical companies have major “blockbuster” drugs that have lost their patent protection over the past few years (e.g. Viagra) or are nearing the end of their patent protections (e.g. Januvia & Janumet). This puts significant pressure on these companies to acquire or develop new drugs with large market opportunity, and to re-evaluate their cost structures and the time-to-market of their products. Contract research organizations have benefited from these developments, as the pharmaceutical industry has turned to outsourcing to both reduce fixed costs and to increase the speed of research and data development necessary for new product applications. The number of significant drugs that have reached or are nearing the end of their patent protection has also benefited the generic drug industry. Generic drug companies provide a significant source of new business for CROs as they develop, test and manufacture their generic compounds.

A significant portion of innovation in the pharmaceutical industry is now driven by smaller, venture capital funded drug discovery companies. Many of these companies are “single-molecule” entities, whose success depends on one innovative compound. While several biotech companies have reached the status of major pharmaceutical companies, the industry is still characterized by smaller entities. These developmental companies generally do not have the resources to perform much of their research within their organizations and are therefore dependent on the CRO industry for both their research and for guidance in preparing their regulatory submissions. These companies, however, are able to pay for CRO Services and products after a reported seven billion dollars in private capital invested in private drug development companies in the first quarter of 2021. These companies have provided significant new opportunities for the CRO industry, including the Company. We believe that the Company is ideally positioned to serve these clients as they look for alternatives to the large CROs that cater primarily to the large pharmaceutical company segment of the marketplace.

We review various metrics to evaluate our financial performance, including revenue, margins and earnings. In the nine months ended June 30, 2021, total revenues increased to \$59,529 from \$44,695, a 33.2% increase from the nine months ended June 30, 2020. Gross profit increased to \$19,848 from \$13,614, a 45.8% increase. Operating expenses were higher by 44.1% in the nine months ended June 30, 2021 compared to the nine months ended June 30, 2020. The most notable growth in operating expenses is related to our investment and focus to continue to build our infrastructure for growth, which included additional headcount, recruiting and relocation expense, transaction costs related to the HistoTox Labs Acquisition and the Merger, and investments in business development to build out new service offerings.

As of June 30, 2021, we had \$24,660 of cash and cash equivalents as compared to \$1,406 of cash and cash equivalents at the end of fiscal 2020. In the first nine months of fiscal 2021, we generated \$8,049 in cash from operations as compared to \$1,586 in the same period in fiscal 2020. During the nine months ended June 30, 2021, cash from operations, cash on hand, \$1,318 from an equipment line of credit and borrowings on a term loan of \$2,100 together funded capital expenditures of \$8,358 for the investment in laboratory equipment to increase capacity at all locations, facility improvements at the Fort Collins location and the acquisition of the St. Louis facility.

As of June 30, 2021, we did not have an outstanding balance on our \$5,000 available general line of credit and had \$900 balance on a \$3,000 equipment loan that is available until April 30 2022. As described herein, we incurred indebtedness in connection with financing the Seventh Wave Acquisition, the Smithers Avanza Acquisition, the PCRS Acquisition, the HistoTox Labs Acquisition, the Merger and the expansion of facilities and services. Refer to the Liquidity and Capital Resources section herein for a description of our credit arrangements with First Internet Bank.

## Results of Operations

The following table summarizes our condensed consolidated statement of operations as a percentage of total revenues for the periods shown:

	Three Months Ended June 30,		Nine Months Ended June 30,	
	2021	2020	2021	2020
Services revenue	95.8 %	94.2 %	95.5 %	94.4 %
Products revenue	4.2	5.8	4.5	5.6
Total revenue	100	100	100	100
Cost of services revenue <sup>(a)</sup>	67.1	68.1	67.2	69.0
Cost of products revenue <sup>(a)</sup>	56.3	64.4	55.3	68.9
Total cost of revenue	66.6	67.9	66.7	69.5
Gross profit	33.4	31.4	33.3	30.5
Operating expenses	40.8	34.4	37.1	34.2
Operating income (loss)	(7.4)	(3.0)	(3.8)	(3.8)
Other income (expense)	(2.0)	(2.4)	(1.7)	(2.4)
Income (loss) before income taxes	(9.4)	(5.4)	(5.5)	(6.2)
Income tax expense (benefit)	(20.8)	0.1	(7.9)	0.3
Net income (loss)	11.4 %	(5.6) %	2.5 %	(6.5) %

(a) Percentage of service and product revenues, respectively

## Three Months Ended June 30, 2021 Compared to Three Months Ended June 30, 2020

### *Service and Product Revenues*

Revenues for the quarter ended June 30, 2021 increased 45.2% to \$22,892 compared to \$15,765 for the same period last fiscal year.

Our Service revenue increased 47.6% to \$21,924 in the three months ended June 30, 2021 compared to \$14,852 for the three months ended June 30, 2020. Nonclinical services revenues increased \$6,190 due to internal growth year over year as well as the acquisitions of HistoTox Labs and Bolder BioPATH in the third quarter of fiscal year 2021. Other laboratory services revenues increased by \$619 in the three months ended June 30, 2021 compared to the three months ended June 30, 2020, due to internal growth.

	Three Months Ended June 30,		Change	%
	2021	2020		
Bioanalytical analysis	\$ 2,248	\$ 1,985	\$ 263	13.2 %
Nonclinical services	18,315	12,125	6,190	51.1 %
Other laboratory services	1,361	742	619	83.4 %
	<u>\$ 21,924</u>	<u>\$ 14,852</u>	<u>\$ 7,072</u>	

Sales in our Products segment increased 6.1% in the three months ended June 30, 2021 to \$968 from \$913 in the three months ended June 30, 2020. The increase in the third fiscal quarter of 2021 stems from higher sales of analytical instruments, partially offset by a decrease in Culex in-vivo sampling systems and other instruments.

	Three Months Ended June 30,		Change	%
	2021	2020		
Culex, in-vivo sampling systems	\$ 203	\$ 404	\$ (201)	(49.8)%
Analytical instruments	653	381	272	71.4 %
Other instruments	112	128	(16)	(12.5)%
	<u>\$ 968</u>	<u>\$ 913</u>	<u>\$ 55</u>	

### *Cost of Revenues*

Cost of revenues for the three months ended June 30, 2021 was \$15,246 or 66.6% of revenue, compared to \$10,701, or 67.9% of revenue for the three months ended June 30, 2020.

Cost of Service revenue as a percentage of Service revenue decreased to 67.1% during the three months ended June 30, 2021 from 68.1% in the three months ended June 30, 2020, reflecting greater utilization of recently expanded capacity.

Cost of Products revenue as a percentage of Products revenue in the three months ended June 30, 2021 decreased to 56.3% from 64.4% in the three months ended June 30, 2020 due to expense reductions implemented in the last half of fiscal 2020, which created improved margins on existing sales.

### *Operating Expenses*

Selling expenses for the three months ended June 30, 2021 increased 37.3% to \$950 from \$692 compared to the three months ended June 30, 2020. This increase is mainly due to an increase in travel expenses as our sales and marketing teams have begun traveling more as the COVID-19 pandemic eases and an increase in commissions due to higher sales awards.

Research and development expenses for the three months ended June 30, 2021 of \$107 were comparable to \$105 for the three months ended June 30, 2020.

Costs related to the development and initiation of new service offerings that are not revenue generating at this time are being identified as *Startup costs*. In addition to investments in software solutions and human resources to support existing internal expertise in the area of SEND (Standard for the Exchange of Nonclinical Data) data management and delivery investments in SEND reporting, safety pharmacology and clinical pathology, during the quarter, we began investing in additional service offerings such as medical device pathology, biotherapeutics, and genetic toxicology. These expenses include, but are not limited to, employee compensation expenses, travel expenses, relocation expenses, and recruiting expenses. While certain of these costs are one-time in nature, there are

certain costs (e.g. employee compensation expenses) that will be expected to recur once the new offerings are revenue generating at which time the related costs will be reclassified on the consolidated statement of operations. Startup costs for the three months ended June 30, 2021 were \$479 as compared to \$120 for the three months ended June 30, 2020. Certain prior period amounts have been reclassified for consistency with the current year presentation. These reclassifications had no effect on the reported results of operations.

General and administrative expenses for the three months ended June 30, 2021 increased 69.0% to \$7,813 from \$4,624 compared to the three months ended June 30, 2020, as the Company continued to build the infrastructure for growth, which included additional headcount, recruiting and relocation expense and legal and professional costs related to the acquisition of HistoTox Labs and the Merger

*Other Income (Expense)*

Interest expense for the three months ended June 30, 2021 increased 17.5% to \$449 from \$382 compared to the three months ended June 30, 2020.

*Income Taxes*

Our effective tax rates for the three months ended June 30, 2021 and 2020 were (220.95)% and (2.40)%, respectively. The income tax benefit recorded for the three-month period ended June 30, 2021 was \$4,753 and relates primarily to a discrete change in valuation allowance as a result of the Bolder BioPATH acquisition in the quarter. The income tax expense recorded for the three-month period ended June 30, 2020 was \$21 and relates primarily to certain credits that arise when deferred tax liabilities that are created by indefinite-lived assets cannot be used as a source of taxable income to support the realization of deferred tax assets for valuation allowance purposes. The tax expense associated with such credits is required to be recorded.

*Net Income/Loss*

As a result of the above described factors and the restatement described below, we had net income of \$2,602 for the three months ended June 30, 2021 as compared to a net loss of \$879 during the three months ended June 30, 2020. Net income includes the restatement determined by the Company's management and audit committee of a non-cash tax benefit of \$4.9 million relating to a partial release of the Company's valuation allowance for deferred tax liabilities acquired with the acquisitions of Bolder BioPATH.

**Nine Months Ended June 30, 2021 Compared to Nine Months Ended June 30, 2020**

*Service and Product Revenues*

Revenues for the nine months ended June 30, 2021 increased 33.2% to \$59,529 as compared to \$44,695 for the nine months ended June 30, 2020.

Our Service revenue increased 34.8% to \$56,858 in the nine months ended June 30, 2021 compared to \$42,185 for the nine months ended June 30, 2020. The majority of the increase in service revenue was due to internal growth, augmented by \$4,251 of incremental revenue from operations at the Boulder, CO location, which we acquired in connection with the acquisition of HistoTox Labs and the Merger in the third fiscal quarter of 2021.

	<b>Nine Months Ended June 30,</b>		<b>Change</b>	<b>%</b>
	<b>2021</b>	<b>2020</b>		
Bioanalytical analysis	\$ 6,118	\$ 5,899	\$ 219	3.7 %
Nonclinical services	46,160	34,301	11,859	34.6 %
Other laboratory services	4,580	1,985	2,595	130.7 %
	<u>\$ 56,858</u>	<u>\$ 42,185</u>	<u>\$ 14,673</u>	

Sales in our Product segment increased 6.4% in the first nine months ended June 30, 2021 to \$2,671 from \$2,510 when compared to the nine months ended June 30, 2020 reflecting higher sales of analytical instruments, partially offset by a decrease in Culex in-vivo sampling systems and other instruments.

	Nine Months Ended June 30,		Change	%
	2021	2020		
Culex, in-vivo sampling systems	\$ 675	\$ 808	\$ (133)	(16)%
Analytical instruments	1,718	1,304	414	31.7 %
Other instruments	278	398	(120)	(30.2)%
	<u>\$ 2,671</u>	<u>\$ 2,510</u>	<u>\$ 161</u>	

#### *Cost of Revenues*

Cost of revenues for the nine months ended June 30, 2021 was \$39,681 or 66.7% of revenue, compared to \$30,849, or 69.0% of revenue compared to the nine months ended June 30, 2020.

Cost of Service revenue as a percentage of Service revenue decreased to 67.2% during the nine months ended June 30, 2021 from 69.0% in the nine months ended June 30, 2020 reflecting operating leverage and the greater utilization of recently expanded capacity.

Cost of Product revenue as a percentage of Product revenue in the nine months ended June 30, 2021 decreased to 55.3% from 68.9% in the nine months ended June 30, 2020 due to expense reductions implemented in the last half of fiscal 2020, which created improved margins on existing sales.

#### *Operating Expenses*

Selling expenses for the nine months ended June 30, 2021 decreased 12.3% to \$2,343 from \$2,672 compared to the nine months ended June 30, 2020. This decrease is mainly due to the reduction of non-recurring costs of nearly \$190 that was related to the launch of the trade name Inotiv prior to the formal change of our corporate name to Inotiv, Inc., as well as a decrease in trade show and travel expenses due to the COVID-19 pandemic, as our sales and marketing teams have been conducting meetings virtually, although travel has begun to increase during the third quarter of fiscal year 2021.

Research and development expenses for the nine months ended June 30, 2021 decreased 32.4% compared to the nine months ended June 30, 2020 to \$290 from \$429.

Costs related to the development and initiation of new service offerings and are not revenue generating at this time are being identified as *Startup costs*. During the nine months ended June 30, 2021, we invested in additional service offerings such as software solutions and human resources to support existing internal expertise in the area of SEND (Standard for the Exchange of Nonclinical Data) data management and delivery investments in SEND reporting, safety pharmacology, clinical pathology, medical device pathology, biotherapeutics and genetic toxicology. These expenses include, but are not limited to, employee compensation expenses, travel expenses, relocation expenses and recruiting expenses. While certain of these costs are one-time in nature, there are certain costs (e.g. salaries) that will be expected to recur once the new offerings are revenue generating at which time the related costs will be reclassified on the consolidated statement of operations, respectively. Startup costs for the nine months ended June 30, 2021 were \$841 as compared to \$232 for the nine months ended June 30, 2020. Certain prior period amounts have been reclassified for consistency with the current year presentation. These reclassifications had no effect on the reported results of operations.

General and administrative expenses for the nine months ended June 30, 2021 increased 52.3% to \$18,584 from \$12,205 compared to the nine months ended June 30, 2020 as the Company continued to build the infrastructure for growth, which included additional headcount, recruiting and relocation expense as well as transaction costs related to the acquisition of HistoTox Labs and the Merger. In addition, we announced investments being made in laboratory infrastructure and data and study management technologies through a partnership with Centric Consulting, LLC.

#### *Other Income (Expense)*

Interest expense for the nine months ended June 30, 2021 increased 7.2% to \$1,163 from \$1,085 compared to the nine months ended June 30, 2020 due to higher debt levels.

## *Income Taxes*

Our effective income tax rates for the nine months ended June 30, 2021 and 2020 were (147.39)% and (4.62)%, respectively. The income tax benefit recorded for the nine months ended June 30, 2021 was \$4,706 and relates primarily to a discrete change in valuation allowance as a result of the Bolder BioPATH acquisition in the quarter. The income tax expense recorded for nine months ended June 30, 2020 was \$129 and relates primarily to certain credits that arise when deferred tax liabilities that are created by indefinite-lived assets cannot be used as a source of taxable income to support the realization of deferred tax assets for valuation allowance purposes. The tax expense associated with such credits is required to be recorded.

## *Net Income (Loss)*

As a result of the factors described above and the restatement below, net income for the nine months ended June 30, 2021 amounted to \$1,513, compared to net loss of \$2,893 for the nine months ended June 30, 2020. Net income includes the restatement determined by the Company's management and audit committee of a non-cash tax benefit of \$4.9 million relating to a partial release of the Company's valuation allowance for deferred tax liabilities acquired with the acquisitions of Bolder BioPATH in the third quarter.

## **Liquidity and Capital Resources**

### *Comparative Cash Flow Analysis*

At June 30, 2021, we had cash and cash equivalents of \$24,660, compared to \$1,406 at September 30, 2020.

Net cash provided by operating activities was \$8,049 for the nine months ended June 30, 2021 compared to net cash provided by operating activities of \$1,586 for the nine months ended June 30, 2020. Contributing factors to our cash provided by operations in the first nine months of fiscal 2021 were noncash charges of \$4,087 for depreciation and amortization, \$1,040 for stock compensation expense, a change in deferred taxes of \$4,867, and a net increase in customer advances of \$7,451, as a result of increasing orders and the acquisitions of HistoTox Labs and Bolder BioPATH. These items were partially offset by an increase of \$1,306 in accounts payable and an increase of \$1,594 in accrued expenses.

Days' sales in accounts receivable increased to 74 days at June 30, 2021 from 56 days at September 30, 2020 due to an increase in accounts receivable from the acquisitions during the quarter. It is not unusual to see a fluctuation in the Company's pattern of days' sales in accounts receivable. Customers may expedite or delay payments from period-to-period for a variety of reasons including, but not limited to, the timing of capital raised to fund on-going research and development projects.

Included in operating activities for the nine months ended June 30, 2020 are non-cash charges of \$2,747 for depreciation and amortization, \$380 for stock compensation expense, \$327 increase in accrued expenses and a net increase in customer advances of \$4,063, as a result of increasing orders. These items were partially offset by an increase of \$701 in accounts receivable, an increase of \$395 in inventories, and a decrease of \$2,040 in accounts payable.

Investing activities used \$49,054 in the nine months ended June 30, 2021 due mainly to cash paid in the acquisition of HistoTox and the Merger of \$40,698 and capital expenditures of \$8,358 as compared to \$9,094 used in the first nine months of fiscal 2020. The capital additions during the nine months ended June 30, 2021 consisted of the purchase of our St. Louis facility, facility improvements in Ft. Collins and investments in laboratory equipment.

Financing activities provided \$64,259 in the nine months ended June 30, 2021, compared to \$9,850 provided during the nine months ended June 30, 2020. The cash provided in the first nine months of fiscal 2021 included proceeds from the issuance of common stock of \$48,972 and borrowings on long-term loans of \$17,087, partially offset by payments of long-term borrowings of \$2,620 and debt issuance costs of \$409. The main sources of cash in the first nine months of fiscal 2020 were from borrowings on the long-term loan of \$3,726, funds received from the PPP loan of \$5,051 and borrowings on the Construction loan and Capex lines of credit of \$1,287 and \$2,423, respectively. Total long-term loan payments were \$1,157 and net repayments on the Revolving Credit facility were \$1,063. Finance lease payments of \$330 and payment of debt issuance cost of \$111 also contributed to the use of cash.

### *Capital Resources*

#### **Credit Facility**

On April 30, 2021, we entered into an Amended and Restated Credit Agreement (the "Credit Agreement") with First Internet Bank of Indiana ("FIB") to, among other things, secure additional debt financing in order to fund portions of the consideration for the acquisition of HistoTox Labs and the Merger. The Credit Agreement included eleven term loans (the "Term Loans"), an equipment

draw loan (the “Equipment Loan”), and a revolving line of credit (the “Revolving Facility”). On May 26, 2021, we entered into an amendment to the Credit Agreement to, among other things, provide a new term loan facility to finance the acquisition and refurbishment of our Maryland Heights, Missouri, facility, which we had previously leased. The material terms of each of the loans under the Credit Agreement, as amended, are described below.

Included in the Credit Agreement is a requirement that we maintain certain financial covenants, including maintaining a senior funded debt to adjusted EBITDA ratio (as defined in the Credit Agreement) of not greater than (i) 5.25 to 1.00 as of the date of the Credit Agreement and as of June 30, 2021, (ii) 4.75 to 1.00 as of September 30, 2021, (iii) 4.50 to 1.00 as of December 31, 2021, (iv) 4.25 to 1.00 as of March 31, 2022, (v) 4.00 to 1.00 as of June 30, 2022, and (vi) 3.50 to 1.00 as of September 30, 2022 and as of each fiscal quarter end thereafter.

Also included in the Credit Agreement is a requirement that we maintain a fixed charge coverage ratio (as defined in the Credit Agreement) of not less than (i) 1.20 to 1.00, commencing as of September 30, 2021, and continuing as of each fiscal quarter end thereafter up to and including June 30, 2022, and (ii) 1.25 to 1.00 as of September 30, 2022 and as of each fiscal quarter end thereafter.

Upon an event of default, which includes certain customary events such as, among other things, a failure to make required payments when due, a failure to comply with covenants, certain bankruptcy and insolvency events, and defaults under other material indebtedness, FIB may cease advancing funds, increase the interest rate on outstanding balances, accelerate amounts outstanding, terminate the agreement and foreclose on all collateral.

Our obligations under the Credit Agreement are guaranteed by each of our subsidiaries (collectively, the “Guarantors”). Our obligations under the Credit Agreement and the Guarantors’ obligations under their respective guaranties are secured by first priority security interests in substantially all of our assets and the assets of the Guarantors, mortgages on our real property in West Lafayette, Indiana, Evansville, Indiana, Maryland Heights, Missouri, and Fort Collins, Colorado, and pledges of our ownership interests in our subsidiaries. We have also obtained a life insurance policy in the amount of \$5.0 million for our President and Chief Executive Officer and provided FIB an assignment of such life insurance policy as additional collateral.

(a) Terms of the Equipment Loan.

We may borrow under the Equipment Loan on or before April 30, 2022 in the aggregate principal amount of up to \$3.0 million (the “Equipment Loan Commitment”). The Equipment Loan Commitment will automatically terminate upon the earlier of (x) any funding of the maximum amount of the Equipment Loan Commitment and (y) 5:00 p.m., Indianapolis time, on April 30, 2022. Until April 30, 2022, we must pay interest on the amount outstanding under the Equipment Loan at a fixed annual rate of 4.00%. On April 30, 2022, all amounts outstanding under the Equipment Loan will be converted to a term loan and repaid monthly in installments of principal based on a five (5) year amortization schedule together with the interest that shall accrue thereon. A final installment representing the entire unpaid principal of the Equipment Loan, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, will be due and payable on April 30, 2027. Advances under the Equipment Loan will be used to fund our equipment needs as approved by FIB.

(b) Terms of the Revolving Facility.

The Revolving Facility provides a line of credit for up to \$5.0 million, which we may borrow from time to time, subject to the terms of the Credit Agreement, including as may be limited by the amount of our outstanding eligible receivables. The Revolving Facility requires monthly accrued and unpaid interest payments only until maturity at a floating per annum rate equal to the greater of (a) 4.00%, or (b) the Prime Index (as defined in the Credit Agreement). We did not have an outstanding balance on the Revolving Facility as of June 30, 2021. Advances under the Revolving Facility will be used for general working capital purposes.

(c) Terms of the Term Loans:

Loan Name	Principal Amount as of date of Credit Agreement April 30, 2021 (000)	Balance June 30, 2021 (000)	Annual Interest Rate	Monthly Payment Amount (000)	Maturity Date	Use of Proceeds
Term Loan 1	\$ 3,980	\$ 3,943	5.20 %	\$ 36	March 28, 2025	Funded expansion of building on real property in Mount Vernon, IN
Term Loan 2	\$ 3,571	\$ 3,446	5.06 %	\$ 78	July 2, 2023	Funded a portion of the cash consideration for the Seventh Wave Laboratories acquisition
Term Loan 3	\$ 1,076	\$ 1,031	5.20 %	\$ 32	March 28, 2025	Funded equipment needs associated with expansion of real property in Mount Vernon, IN
Term Loan 4	\$ 1,001	\$ 969	4.63 %	\$ 20	November 1, 2025	Funded the cash consideration for the Smithers Avanza acquisition
Term Loan 5	\$ 810	\$ 781	4.00 %	\$ 17	June 30, 2025	Funded certain capital expenditures
Term Loan 6	\$ 2,865	\$ 2,728	4.25 %	\$ 56	December 31, 2025	Funded certain capital expenditures
Term Loan 7	\$ 1,263	\$ 1,216	4.00 %	\$ 28	June 1, 2025	Financed aspects of the Pre-Clinical Research Services and related real property acquisitions
Term Loan 8	\$ 1,853	\$ 1,842	4.00 %	\$ 12	December 1, 2024	Financed aspects of the Pre-Clinical Research Services and related real property acquisitions
Term Loan 9	\$ 10,000	\$ 9,850	3.85 %	\$ 184 (a)	April 30, 2026	Funded a portion of the cash consideration of the Merger
Term Loan 10	\$ 5,000	\$ 4,925	3.85 %	\$ 92 (a)	April 30, 2026	Funded a portion of the cash consideration of the HistoTox Labs Acquisition
Term Loan 11	\$ 3,622	\$ 3,559	3.99 %	\$ 33	June 23, 2022	Refinanced debt with The Huntington Bank for general business purposes
Term Loan 12	\$ 4,832 (b)	\$ 2,088	3.85 %	\$ 10 (c)	December 26, 2026	Financed the acquisition of the St. Louis facility and associated expansion

(a) See Mandatory Prepayments information below.

(b) Principal amount as of May 26, 2021.

(c) The monthly payment amount increases to \$29 on January 1, 2022.

(d) Mandatory Prepayments.

Commencing with the fiscal year ending September 30, 2021 and for each fiscal year thereafter until the Term Loan 9 and/or Term Loan 10, in each case, are paid in full, we must prepay Term Loan 9 and Term Loan 10 on a pro rata basis on the following January 31st, in an amount equal to 50% of our excess cash flow (as defined in the Credit Agreement) for such fiscal year (in each case, an “Excess Cash Flow Payment”), provided that for the fiscal year ending September 30, 2021 the Excess Cash Flow Payment, if any, will be calculated only for the period from April 30, 2021 through September 30, 2021. Excess cash flow will be calculated for each fiscal year based on (a) our adjusted EBITDA (as defined in the Credit Agreement), minus (b) cash interest expense, minus (c) cash taxes paid or cash distributions made for payment of taxes, minus (d) principal payments paid in respect of long-term indebtedness (excluding any principal reduction on Term Loan 9 or Term Loan 10, in each case, with respect to excess cash flow and excluding principal payments on the Revolving Facility), minus (e) capital expenditures not funded by advances under the Equipment Loan as specified under the Credit Agreement.

Acquisition-related Debt

In addition to the indebtedness under the Credit Agreement, certain of our subsidiaries have issued unsecured notes as partial payment of the purchase prices of certain acquisitions as described herein. Each of these notes is subordinated to the indebtedness under the Credit Agreement.

As part of the Smithers Avanza acquisition, our BASi Gaithersburg subsidiary issued an unsecured subordinated promissory note payable to the Smithers Avanza seller in the initial principal amount of \$810, which we guaranteed. The promissory note bears interest at a rate of 6.5% per annum, with monthly payments of principal and interest and a maturity date of May 1, 2022. At June 30, 2021, the balance on the note payable to the Smithers Avanza seller was \$385.

As part of the PCRS Acquisition, our Bronco Research Services subsidiary issued an unsecured subordinated promissory note payable to the PCRS seller in the initial principal amount of \$800. The promissory note bears interest at a rate of 4.5% per annum with

monthly payments of principal and interest and a maturity date of December 1, 2024. At June 30, 2021, the balance on the note payable to the PCRS seller was \$702.

As part of the acquisition of Boulder BioPATH, our Inotiv Boulder subsidiary issued unsecured subordinated promissory notes payable to the former shareholders of Boulder BioPATH in an aggregate principal amount of \$1,500. The promissory notes bear interest at a rate of 4.5% per annum, with monthly payments of principal and interest and a maturity date of May 1, 2026. At June 30, 2021, the balance on the notes payable to the former Boulder BioPATH shareholders was \$1,500.

#### PPP Loan

On April 23, 2020, we were granted a loan (the “Loan”) from Huntington National Bank in the aggregate amount of \$5,051, pursuant to the Paycheck Protection Program under Division A, Title I of the CARES Act, which was enacted March 27, 2020. The terms of the Loan call for repayment of the principal and accrued interest under the Loan in eighteen installments of \$283 beginning on November 16, 2020 and continuing monthly until the final payment is due on April 16, 2022. However, the bank is not requiring payments of principal or interest pending the loan forgiveness decision. We applied for forgiveness of the loan in the amount of \$4,851. On July 16, 2021, we received notice from Huntington Bank that the SBA had approved our application for forgiveness of the PPP Loan in the full amount requested.

On January 28, 2015, we entered into a lease agreement with Cook Biotech, Inc. The lease agreement has and will provide us with additional cash in the range of approximately \$50 per month during the first year of the initial term to approximately \$57 per month during the final year of the initial term.

On April 23, 2021, we closed an underwritten public offering of 3,044 of our common shares. All of the shares were sold at a price to the public of \$17.00 per share. Net proceeds from the offering were approximately \$49.0 million, after deducting the underwriting discount and estimated offering expenses, a portion of which net proceeds were used to fund a portion of the cash consideration paid in the acquisitions of HistoTox Labs and the Merger. The remainder of the net proceeds from the offering remain available for general corporate purposes, including capital expenditures and potential future acquisitions.

Sources of liquidity for fiscal 2021 are expected to consist primarily of cash generated from operations, cash on-hand (including the remaining net proceeds from the April public offering) and additional borrowings available under our Credit Agreement. Research services are capital intensive. The investment in equipment, facilities and human capital to serve our markets is substantial and continuing. Rapid changes in automation, precision, speed and technologies necessitate a constant investment in equipment and software to meet market demands. We are also impacted by the heightened regulatory environment and the need to improve our business infrastructure to support our operations, which will necessitate additional capital investment. Our ability to generate capital to reinvest in our capabilities and to obtain additional capital if and as needed through financial transactions is critical to our success. Sustained growth will require additional investment in future periods. Positive cash flow and access to capital will be important to our ability to make such investments. Management believes that the resources described above will be sufficient to fund operations, planned capital expenditures and working capital requirements over the next twelve months.

### ***ITEM 3 – QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK***

A smaller reporting company is not required to provide the information required by this Item 3.

### ***ITEM 4 - CONTROLS AND PROCEDURES***

*Information pertaining to controls and procedures in this Item 4 has been updated for events and developments occurring subsequent to the filing of the original Form 10-Q related to the third quarter of fiscal 2021.*

#### *Disclosure Controls and Procedures*

We maintain disclosure controls and procedures that are designed to provide reasonable assurance that information, which is required to be disclosed timely, is accumulated and communicated to management in a timely fashion. In designing and evaluating such controls and procedures, we recognize that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives. Our management is necessarily required to use judgment in evaluating controls and procedures.

Management performs periodic evaluations to determine if our disclosure controls and procedures are effective to provide reasonable assurance that information required to be disclosed by the Company in the reports that it files or submits under the Securities Exchange Act of 1934, as amended, is accumulated and communicated to management, including our Chief Executive Officer and Chief

Financial Officer, as appropriate, to allow timely decisions regarding required disclosure and are effective to provide reasonable assurance that such information is recorded, processed, summarized and reported within the time periods specified by the SEC's rules and forms. An evaluation of the effectiveness of the design and operation of our disclosure controls and procedures as of the end of the period covered by this report was performed under the supervision and with the participation of management, which initially resulted in a determination by our Chief Executive Officer and Chief Financial Officer that our disclosure controls and procedures were effective as of June 30, 2021.

In light of the restatement of our financial statements for the period covered by this report due to a failure to properly account for certain tax attributes related to the Bolder BioPATH acquisition that occurred in the Company's third fiscal quarter, management has reevaluated the effectiveness of certain of the Company's disclosure controls and procedures and internal controls over financial reporting as of June 30, 2021. Based on this reevaluation, our Chief Executive Officer and Chief Financial Officer have concluded that during the period covered by this report, certain of our disclosure controls and procedures were not effective due to a material weakness in internal controls over financial reporting, specifically as it relates to the tax impact of acquisitions that qualify as stock transactions for tax purposes.

To address this material weakness, management has devoted, and plans to continue to devote, significant effort and resources to the remediation and improvement of its internal control over financial reporting and to provide processes and controls over the research and understanding of the tax impact of acquisitions that qualify as stock transactions for tax purposes. While we have processes to identify and appropriately apply applicable accounting requirements, we plan to enhance these processes to better evaluate our research and understanding of the nuances of the tax impact of acquisitions that qualify as stock transactions for tax purposes. We plan to include providing enhanced access to accounting literature, research materials and documents and increased communication among our personnel and third-party professionals with whom we consult regarding the tax impact of acquisitions that qualify as stock transactions for tax purposes. The elements of our remediation plan can only be accomplished over time, and we can offer no assurance that these initiatives will ultimately have the intended effects.

Other than this issue, our disclosure controls and procedures were effective at a reasonable assurance level and, accordingly, provided reasonable assurance that the information required to be disclosed by us in reports filed under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms.

#### *Changes in Internal Controls*

There were no changes in our internal control over financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) under the Exchange Act, during the third quarter of fiscal 2021 that have materially affected or are reasonably likely to materially affect our internal control over financial reporting as the circumstances that led to the material weakness described above had not yet been identified. We are in the process of implementing changes to our internal control over financial reporting to remediate the material weakness, as more fully described above. The elements of our remediation plan can only be accomplished over time, and we can offer no assurance that these initiatives will ultimately have the intended effects.

## **PART II**

### ***ITEM 1 – LEGAL PROCEEDINGS***

There were no material changes during the third quarter of fiscal 2021 to our disclosure in Item 3 of our Form 10-K for fiscal 2020.

### ***ITEM 1A - RISK FACTORS***

*Information pertaining to our risk factors has been updated in connection with the restated financials noted herein.*

Before investing in our securities you should carefully consider the risks described below and in our Annual Report on Form 10-K for the fiscal year ended September 30, 2020, including those disclosed under the heading "Risk Factors" appearing in Item 1A of Part I of the Form 10-K, as well as the information contained in our subsequent Quarterly Reports. Realization of any of these risks could have a material adverse effect on our business, financial condition, cash flows and results of operations.

The risks described in our Annual Reports on Form 10-K and our Quarterly Reports on Form 10-Q from time to time are not the only risks we face. New risk factors or risks that we currently deem immaterial emerge from time to time and it is not possible for us to predict all such risk factors, nor to assess the impact such risk factors might have on our business, financial condition and operating

results, or the extent to which any such risk factor or combination of risk factors may impact our business, financial condition and operating results.

***The HistoTox Labs Acquisition and the Merger may present many risks, and we may not realize the strategic and financial goals that were contemplated at the time we entered into the Purchase Agreement and the Merger Agreement.***

Risks we may face in connection with the HistoTox Labs Acquisition and the Merger (together, the “Acquisitions”) include:

- We may not realize the benefits we expect to receive from the Acquisitions, such as anticipated synergies.
- We may have difficulties managing Inotiv – Boulder HTL’s and/or Inotiv Boulder’s services or retaining key personnel from HistoTox Labs and/or Bolder BioPATH.
- The Acquisitions may not further our business strategy as we expect, we may not successfully integrate HistoTox Labs and/or Bolder BioPATH as planned, there could be unanticipated adverse impacts on HistoTox Labs’ and/or Bolder BioPATH’s businesses, or we may otherwise not realize the expected return on our investments, which could adversely affect our business or operating results and potentially cause impairment to assets that we record as a part of the Acquisitions, including intangible assets and goodwill.
- Our operating results or financial condition may be adversely impacted by (i) claims or liabilities related to HistoTox Labs’ and/or Bolder BioPATH’s businesses including, among others, claims from U.S. regulatory or other governmental agencies, terminated employees, current or former customers or business partners, or other third parties; (ii) pre-existing contractual relationships of HistoTox Labs and/or Bolder BioPATH that we would not have otherwise entered into, the termination or modification of which may be costly or disruptive to our business; (iii) unfavorable accounting treatment as a result of HistoTox Labs’ and/or Bolder BioPATH’s practices; and (iv) intellectual property claims or disputes.
- Neither HistoTox Labs nor Bolder BioPATH was required to maintain an internal control infrastructure that would meet the standards of a public company, including the requirements of the Sarbanes-Oxley Act of 2002. The costs that we may incur to implement such controls and procedures may be substantial and we could encounter unexpected delays and challenges in this implementation. In addition, we may discover significant deficiencies or material weaknesses in the quality of Inotiv – Boulder HTL’s and or Inotiv Boulder’s financial and disclosure controls and procedures.

***Future sales of our common shares by us or our existing shareholders could cause our share price to decline.***

Sales of a substantial number of our common shares in the public market, or the perception that these sales might occur, could depress the market price of our common shares and could impair our ability to raise capital through the sale of additional equity securities. Further, we have stock options outstanding. As of June 30, 2021, we had 15,866,655 outstanding common shares and 868,550 common shares issuable upon the exercise of outstanding stock options, of which approximately 3,200,954 shares and 240,500 shares underlying stock options are subject to restrictions on transfer under 90-day lock-up arrangements with the underwriter of our public offering. These shares will become eligible for public sale at the expiration of the lock-up period, subject to vesting requirements and volume limitations applicable to affiliates. If a substantial number of common shares, including common shares underlying outstanding stock options, are sold, or if it is perceived that they will be sold, in the public market, it could have an adverse impact on the market price of our common shares.

In addition, as part of the Merger, we issued 1,588,235 common shares as consideration payable to the Bolder BioPATH equity holders. Following a one-year lock-up period from the closing of the Merger, such shares will be freely tradeable.

Furthermore, our directors and executive officers may in the future adopt written trading plans that are intended to comply with Rule 10b5-1 under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), under which they may in the future contract with a broker to sell our common shares. Sales of substantial amounts of our common shares in the public markets pursuant to new Rule 10b5-1 plans, or the perception that these sales could occur, could cause the market price of our common shares to decline. We are unable to predict the effect that sales may have on the prevailing market price of our common shares.

***We have incurred significant additional indebtedness during recent periods, which may impair our ability to raise further capital or impact our ability to service our debt.***

We have incurred significant additional indebtedness during recent periods, including in order to finance the HistoTox Labs Acquisition and the Merger and to support other corporate endeavors. Our additional indebtedness may impair our ability to raise further capital, including to expand our business, pursue strategic investments, and take advantage of financing or other opportunities that we

believe to be in the best interests of the Company and our shareholders. Our additional indebtedness may also impact our ability to service our debt and to comply with financial covenants and the other terms of our relevant credit arrangements, in which case our lenders might pursue available remedies up to and including terminating our credit arrangements and foreclosing on available collateral.

***We may need additional capital, and any additional capital we seek may not be available in the amount or at the time we need it.***

We utilized additional debt financing in order to fund the exercise of the Company's option to buy its St. Louis facility for approximately \$4,700 and to complete associated expansion.

In general, additional capital may be raised through the sale of common shares, preferred equity or convertible debt securities, entry into debt facilities or other third-party funding arrangements. The sale of equity and convertible debt securities may result in dilution to our shareholders and those securities may have rights senior to those of our common shares. Agreements entered into in connection with such capital raising activities could contain covenants that would restrict our operations or require us to relinquish certain rights. Additional capital may not be available on reasonable terms, or at all. If we cannot timely raise any needed funds, we may be forced to reduce our operating expenses, which could adversely affect our ability to implement our long-term strategic roadmap and grow our business.

Our expected financing needs are based upon management's estimates as to future revenue and expense. Our business plan and financing needs are subject to change based upon, among other factors, our ability to increase revenues and manage expenses. If our estimates of our financing needs change, we may need additional capital more quickly than we expect or we may need a greater amount of capital.

***In connection with the recent restatement of our financial statements, our management has concluded that certain of our disclosure controls and procedures were not effective as of June 30, 2021 due to a material weakness in internal control over financial reporting solely related to our accounting for the tax impact of acquisitions that qualify as stock transactions for tax purposes. If we are unable to maintain an effective system of disclosure controls and procedures and internal control over financial reporting, we may not be able to accurately report our financial results in a timely manner, which may adversely affect investor confidence in us and materially and adversely affect our business and financial results.***

Management and the Audit Committee of the Board of Directors concluded that it was appropriate to restate the Company's previously issued unaudited interim financial statements included in the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 2021, filed with the SEC on August 13, 2021, due to an error in accounting for certain tax attributes related to an acquisition completed by the Company in the third quarter of fiscal 2021. As part of such process, we identified a material weakness in our internal control over financial reporting, solely related to our accounting for the tax impact of acquisitions that qualify as stock transactions for tax purposes.

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 and corrected on a timely basis. Effective internal controls are necessary for us to provide reliable financial reports and prevent fraud. We expect to take steps to remediate the material weakness, but there is no assurance that any remediation efforts will ultimately have the intended effects.

If we identify any new material weaknesses in the future, any such newly identified material weakness could limit our ability to prevent or detect a misstatement of our accounts or disclosures that could result in a material misstatement of our annual or interim financial statements. In such case, we may be unable to maintain compliance with securities law requirements regarding timely filing of periodic reports in addition to applicable stock exchange listing requirements, investors may lose confidence in our financial reporting and our stock price may decline as a result. We cannot assure you that the measures we have taken to date, or any measures we may take in the future, will be sufficient to avoid potential future material weaknesses.

**ITEM 6 - EXHIBITS**

	<b>Number</b>	<b>Description of Exhibits</b>
(3)	3.1	Second Amended and Restated Articles of Incorporation of Inotiv, Inc. (formerly known as Bioanalytical Systems, Inc.) as amended through March 18, 2021 (incorporated by reference to the Company's Form 8-K filed March 19, 2021)
	3.2	Second Amended and Restated Bylaws of Inotiv, Inc. (formerly known as Bioanalytical Systems, Inc.) as amended through March 18, 2021 (incorporated by reference to the Company's Form 8-K filed March 19, 2021)
(10)	10.1	Asset Purchase Agreement, dated April, 13, 2021, by and among Inotiv, Inc, Inotiv-Boulder HTL, LLC, HistoTox Labs, Inc. and the stockholder of HistoTox Labs, Inc. (incorporated by reference to the Company's Form 8-K filed April 19, 2021)
	10.2	Agreement and Plan of Merger, dated April 15, 2021, by and among Inotiv, Inc., Rock Mergeco, Inc., Inotiv Boulder, LLC, Bolder BioPATH, Inc. and the shareholders of Bolder BioPATH, Inc. (incorporated by reference to the Company's Form 8-K filed April 19, 2021)
	10.3	Amended and Restated Credit Agreement, dated April 30, 2021, between Inotiv, Inc. and First Internet Bank of Indiana (filed herewith)
	10.4	First Amendment to Amended and Restated Credit Agreement, dated May 26, 2021, between Inotiv, Inc. and First Internet Bank of Indiana (filed herewith)
	10.5	Consent and Waiver letter, dated May 5, 2021, from First Internet Bank of Indiana (filed herewith)
(31)	31.1	Certification of Principal Executive Officer (filed herewith).*
	31.2	Certification of Chief Financial Officer (filed herewith).*
(32)	32.1	Written Statement of Principal Executive Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350) (filed herewith).*
	32.2	Written Statement of Chief Financial Officer Pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350) (filed herewith).*
	101	Inline XBRL data file (filed herewith)
	104	Cover Page Interactive Data File (embedded within the Inline XBRL document)

\*The certifications have been updated and no other changes were made.

**SIGNATURES**

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned thereunto duly authorized:

Date: December 21, 2021

INOTIV, INC.  
(Registrant)

By: /s/ Robert W. Leasure  
Robert W. Leasure  
President and Chief Executive Officer  
(Principal Executive Officer)

Date: December 21, 2021

By: /s/ Beth A. Taylor  
Beth A. Taylor  
Chief Financial Officer and Vice President of Finance (Principal  
Financial Officer and Accounting Officer)

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AMENDED AND RESTATED CREDIT AGREEMENT

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by and between

INOTIV, INC.,

and

FIRST INTERNET BANK OF INDIANA

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Dated as of April 30, 2021

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# AMENDED AND RESTATED CREDIT AGREEMENT

THIS AMENDED AND RESTATED CREDIT AGREEMENT, dated as of April 30, 2021, is by and between INOTIV, INC. (formerly known as Bioanalytical Systems, Inc.), an Indiana corporation, (the “**Borrower**”), and FIRST INTERNET BANK OF INDIANA, an Indiana state bank (the “**Bank**”). The parties agree as follows:

## WITNESSETH:

WHEREAS, as of December 1, 2019, Borrower and Bank entered into that certain Amended and Restated Credit Agreement (as amended, the “**Original Agreement**”); and

WHEREAS, the parties desire to completely amend and restate the Original Agreement in the form of this Agreement; accordingly and in connection therewith, Bank has agreed to provide Borrower: (i) a revolving credit facility in a maximum principal amount not to exceed \$5,000,000.00 (ii) a \$3,979,644.46 term loan, (iii) a \$3,571,315.61 term loan, (iv) a \$1,076,229.80 term loan, (v) a \$1,001,934.49 term loan, (vi) a \$810,869.23 term loan, (vii) a \$2,864,681.00 term loan, (viii) a \$1,262,894.43 term loan, (ix) a \$1,852,812.69 term loan, (x) a \$5,000,000.00 term loan, (xi) a \$10,000,000.00 term loan, (xii) a \$3,622,308.44 term loan, and (xiii) a \$3,000,000.00 equipment loan.

NOW, THEREFORE, in consideration of the premises, and the mutual promises herein contained, the parties hereto agree that the Original Agreement shall be, and hereby is, subject to the conditions set forth herein, amended and restated in its entirety as follows:

## Article 1. DEFINITIONS

Section 1.1. **Defined Terms.** As used herein:

“**Accounts**”, “**Chattel Paper**”, “**Deposit Accounts**”, “**Documents**”, “**Equipment**”, “**Fixtures**”, “**General Intangibles**”, “**Goods**”, “**Intellectual Property**”, “**Instruments**”, “**Investment Property**”, “**Inventory**” and “**Proceeds**” shall have the meanings ascribed in the Security Agreement.

“**Account Debtor**” means the party which is obligated on or under any Account.

“**Acquisition Agreements**” means the BBP Acquisition Agreement and the HTL Acquisition Agreement.

“**Acquisition Documents**” means the Acquisition Agreements and all other documents ancillary thereto related to the BBP Acquisition and the HTL Acquisition.

“**Adjusted EBITDA**” means for the applicable Test Period, the sum of in total for Borrower and its Consolidated Subsidiaries (without duplication): (a) EBITDA; plus to the extent included in the determination of EBITDA for the applicable Test Period (b) pro forma Adjusted EBITDA with respect to the BBP Acquisition and the HTL Acquisition; plus (c) non-cash losses during the applicable Test Period; plus (d) permitted Run-Rate Cost Savings & Synergies; plus, (e) non-cash stock compensation; plus (f) Approved Non-Recurring Expenses; plus (g) Transaction Costs incurred in connection with the BBP Acquisition and the HTL Acquisition in an amount not to exceed \$2,000,000 during the applicable Test Period; plus (h) such additional add-backs during the applicable Test Period, if any, permitted by Bank in its sole discretion; and minus to the extent included in the determination of EBITDA for the applicable

Test Period, any (i) extraordinary or non-recurring income or gains, and (ii) any gain arising from the sale of capital assets, and (iii) plus or minus any non-cash expense or income recognized.

“**Advance**” means a disbursement of proceeds of the Facilities.

“**Affiliate**” means, with respect to any Person, any other Person (a) directly, or indirectly through one or more intermediaries, controlling, controlled by, or under common control with, such Person, or (b) that directly or indirectly owns more than ten percent (10%) of any class of the voting securities or capital stock of or equity interests in such Person. A Person shall be deemed to control another Person if such Person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of such other Person, whether through the ownership of voting securities, by contract or otherwise.

“**Agreement**” means this Amended and Restated Credit Agreement, as amended from time to time.

“**ALTA Policy**” means, collectively, each policy of title insurance covering the Real Estate required pursuant to this Agreement.

“**Anti-Terrorism Laws**” means any laws and governmental regulations relating to terrorism or money laundering, including Executive Order No. 13224, the USA Patriot Act, the laws and governmental regulations comprising or implementing the Bank Secrecy Act, and the laws and governmental regulations administered by the United States Treasury Department’s Office of Foreign Asset Control (as any of the foregoing laws and governmental regulations may from time to time be amended, renewed, extended or replaced).

“**Appraised Value**” means the then current market value determined pursuant to the most recent appraisal for the Real Estate. All such appraisals shall be ordered by Bank, prepared at Borrower’s expense by a certified appraiser acceptable to Bank and otherwise satisfactory to Bank in all respects. Bank may order, if required by Bank’s internal policies, reappraisals of the Real Estate, at Bank’s sole discretion and at Borrower’s expense.

“**Approved Non-Recurring Expenses**” means for the applicable Test Period and as approved by Bank, up to \$400,000 for rent expense paid with respect to the relevant Maryland Heights, Missouri location; provided, however, non-recurring expenses shall not exceed \$500,000 without Bank’s prior written approval. The non-recurring expense shall be calculated on a pro forma basis as though it had been realized on the first day of the applicable test period for which Adjusted EBITDA is being determined, net of the amount of actual benefits realized during such period.

“**Bank**” means First Internet Bank of Indiana, an Indiana state bank, its successors and assigns.

“**Bank Product Agreements**” means an agreement entered into from time to time by Borrower with Bank or any Affiliate of Bank concerning Bank Products.

“**Bank Product Obligations**” means all obligations, liabilities, contingent reimbursement obligations, fees, and expenses owing by Borrower to Bank or an affiliate of Bank pursuant to or evidenced by Bank Product Agreements, whether direct or indirect, absolute or contingent, due or to become due, now existing or hereafter arising.

“**Bank Products**” means shall mean any service or facility extended to Borrower by Bank or an affiliate of Bank in the nature of: (a) credit cards, (b) credit card processing services, (c) debit cards, (d) purchase cards, (e) ACH Transactions, and (f) cash and treasury management, including controlled disbursement, accounts or services.

“**Banking Day**” means a day on which the principal domestic office of Bank is open for the purpose of conducting substantially all of its business activities.

“**BAS Evansville**” means BAS Evansville, Inc., an Indiana corporation.

“**BASi Gaithersburg**” means BASi Gaithersburg LLC (formerly known as Oriole Toxicology Services LLC), an Indiana limited liability company.

“**BBP**” means Bolder BioPATH, Inc., a Colorado corporation.

“**BBP Acquisition**” means the acquisition by Inotiv Boulder, LLC of all of the outstanding shares of capital stock of BBP as provided in the BBP Acquisition Agreement.

“**BBP Acquisition Agreement**” means that certain Agreement and Plan of Merger dated as of April 15, 2021 by and among IB (as Merger Sub LLC), Rock Mergeco, Inc. (as Merger Sub), the Borrower (as Parent), BBP, and Alison Bendele and Phillip Bendele (as the Stockholders).

“**BBP Acquisition Documents**” means the BBP Acquisition Agreement and all other documents ancillary thereto related to the BBP Acquisition.

“**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.

“**Blocked Person**” has the meaning ascribed thereto in Section 4.26(a) hereof.

“**Borrower**” means Inotiv, Inc. (formerly known as Bioanalytical Systems, Inc.), an Indiana corporation.

“**Borrowing Base**” means, on any date of determination, an amount equal to eighty percent (80%) of the aggregate value of Borrower’s Eligible Accounts; provided, however, that in the event that Bank does not receive the results of a post-closing field examination satisfactory to the Bank following the consummation of the BBP Acquisition and the HTL Acquisition, Bank may, in its sole discretion, reduce the advance rate for the Borrowing Base from eighty percent (80%) of the aggregate value of Borrower’s Eligible Accounts to seventy-five percent (75%) of the aggregate value of Borrower’s Eligible Accounts.

“**Bronco Research**” means Bronco Research Services, LLC, an Indiana limited liability company.

“**Capital Expenditures**” for the applicable Test Period are defined as expenditures made and capitalized during the applicable Test Period by Borrower and its Consolidated Subsidiaries for property, plant, equipment, and other fixed assets (including any such expenditures by way of acquisition or by way of incurrence or assumption of Debt or other obligations, to the extent reflected as plant, property, equipment or other fixed assets), research and development or other long-term assets; provided that expenses made for research and development are later capitalized pursuant to a change in accounting treatment shall be excluded from the calculation, plus (i)

deposits made in the applicable Test Period in connection with property, plant, and equipment; less deposits of a prior period included in calculation above, less (ii) net cash proceeds of asset dispositions received during the applicable Test Period which are permitted to reinvest pursuant to the Credit Agreement and are included in expenditures made and capitalized above.

“**Capital Lease**” means any lease of property to the extent that the obligations thereunder would be capitalized (*i.e.*, included as a liability) on a financial statement of a Person prepared in accordance with GAAP.

“**Capital Lease Obligations**” means the amount of the obligations of a Person under Capital Leases that are shown as liabilities on a balance sheet of such Person prepared in accordance with GAAP.

“**CARES Act**” means the Coronavirus Aid, Relief, and Economic Security Act, and applicable rules and regulations, as amended from time to time.

“**CARES Allowable Uses**” means “allowable uses” of proceeds of an SBA PPP Loan as described in Section 1102 of the CARES Act.

“**CERCLA**” means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended.

“**Change in 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 twenty-five percent (25%) of the aggregate ordinary voting power represented by the issued and outstanding equity interests of the Borrower; (b) occupation of a majority of the seats (other than vacant seats) on the board of directors of the Borrower by Persons who were neither (i) nominated by the board of directors of the Borrower nor (ii) appointed by directors so nominated; or (c) the acquisition of direct or indirect Control of the Borrower by any Person or group.

“**Code**” means the Internal Revenue Code of 1986, as amended, reformed or otherwise modified from time to time.

“**Collateral**” shall mean the “collateral” as defined in the Security Agreement, together with the Real Estate.

“**Collateral Loss**” shall have the meaning ascribed in Section 7.1(q) hereof.

“**Compliance Certificate**” means a Compliance Certificate, in the form prescribed by Bank, duly executed by the chief executive or chief financial officer of Borrower.

“**Consolidated Subsidiaries**” means the Guarantors and any other Subsidiaries of Borrower consolidated for financial reporting purposes.

“**Control**” means the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise.

“**Default**” means any of the events specified in Section 7.1 hereof.

“**Default Rate**” means four percent (4%) in excess of the interest rate otherwise in effect under amounts outstanding under the Notes. In no event will the interest rate accruing under such

Notes be increased to be in excess of the maximum interest rate permitted by applicable state or federal usury laws then in effect.

“**Domestic Subsidiary**” means any Subsidiary that is incorporated or organized under the laws of a State within the United States of America or the District of Columbia.

“**EBITDA**” means for the applicable Test Period the sum in total for Borrower and its Consolidated Subsidiaries (without duplication): earnings before interest, taxes, depreciation and amortization expense for the applicable test period, calculated on a consolidated basis in accordance with GAAP.

“**Eligible Account**” means an Account (as defined in the Uniform Commercial Code) owing to Borrower or any Guarantor (exclusive of any Account owing to an Affiliate that is not a Guarantor) from an Account Debtor which meets each of the following requirements:

(a) it arises from the sale or lease of goods or the rendering of services which have been earned or billed in accordance with signed contracts by Borrower or any Guarantor; and if it arises from the sale or lease of goods, (i) such goods comply in all material respects with such Account Debtor’s specifications (if any) and have been delivered to such Account Debtor and (ii) Borrower or any Guarantor has possession of, or if requested by Bank has delivered to Bank, delivery receipts evidencing such delivery;

(b) it (i) is subject to a perfected, first (1<sup>st</sup>) priority Lien in favor of Bank and (ii) is not subject to any other assignment, claim or Lien;

(c) it is a valid, legally enforceable and unconditional obligation of the Account Debtor with respect thereto, and is not subject to the fulfillment of any condition whatsoever or any counterclaim, setoff, reduction (collectively, “**contra accounts**”) or any credit, allowance, discount, rebate or adjustment by the Account Debtor with respect thereto, or to any claim by such Account Debtor denying liability thereunder in whole or in part and the Account Debtor has not refused to accept and/or has not returned or offered to return any of the goods or services which are the subject of such Account;

(d) there is no bankruptcy, insolvency or liquidation proceeding pending by or against the Account Debtor with respect thereto;

(e) the Account Debtor with respect thereto is a resident or citizen of, and is located within, the United States, unless the sale of goods or services giving rise to such Account is on letter of credit, banker’s acceptance or other credit support terms reasonably satisfactory to Bank;

(f) it is not an Account arising from a “sale on approval,” “sale or return,” “consignment” or “bill and hold” or subject to any other repurchase or return agreement;

(g) it is not an Account with respect to which possession and/or control of the goods sold giving rise thereto is held, maintained or retained by Borrower or any Guarantor (or by any agent or custodian of Borrower or any Guarantor) for the account of or subject to further and/or future direction from the Account Debtor with respect thereto;

(h) it arises in the ordinary course of business of Borrower or any Guarantor;

(i) if the Account Debtor is the United States or any department, agency or instrumentality thereof, Borrower or any Guarantor has assigned its right to payment of

such Account to Bank pursuant to the Assignment of Claims Act of 1940, and evidence (satisfactory to Bank) of such assignment has been delivered to Bank;

(j) if Borrower or any Guarantor maintains a credit limit for an Account Debtor, the aggregate dollar amount of Accounts due from such Account Debtor, including such Account, does not exceed such credit limit;

(k) if the Account is evidenced by Chattel Paper or an Instrument, the originals of such Chattel Paper or Instrument shall have been endorsed and/or assigned and delivered to Bank or, in the case of electronic Chattel Paper, shall be in the control of Bank, in each case in a manner satisfactory to Bank;

(l) such Account is evidenced by an invoice delivered to the related Account Debtor and is not more than ninety (90) days past the original invoice date thereof, according to the original terms of sale;

(m) it is not an Account with respect to an Account Debtor that is located in any jurisdiction which has adopted a statute or other requirement with respect to which any Person that obtains business from within such jurisdiction must file a notice of business activities report or make any other required filings in a timely manner in order to enforce its claims in such jurisdiction's courts unless (i) such notice of business activities report has been duly and timely filed or Borrower or any Guarantor is exempt from filing such report and has provided Bank with satisfactory evidence of such exemption, or (ii) the failure to make such filings may be cured retroactively by Borrower or any Guarantor for a nominal fee;

(n) the Account Debtor with respect thereto is not an Affiliate of Borrower or any Guarantor; and

(o) it is not owed by an Account Debtor with respect to which fifteen percent (15%) or more of the aggregate amount of outstanding Accounts owed at such time by such Account Debtor is classified as ineligible under clause (l) of this definition.

An Account which is at any time an Eligible Account, but which subsequently fails to meet any of the foregoing requirements, shall forthwith cease to be an Eligible Account. Further, with respect to any Account, if Bank at any time hereafter determines in its reasonable discretion that the prospect of payment or performance by the Account Debtor with respect thereto is materially impaired for any reason whatsoever, such Account after written notice of such determination is given to Borrower shall cease to be an Eligible Account.

**“Environmental Laws”** means all provisions of laws, statutes, ordinances, rules, regulations, permits, licenses, judgments, writs, injunctions, decrees, orders, awards and standards promulgated by any Governmental Authority concerning the protection of, or regulation of the discharge of substances into, the environment or concerning the health or safety of persons with respect to environmental hazards, and includes, without limitation, the Hazardous Materials Transportation Act, 42 U.S.C. §1801 *et seq.*, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, 42 U.S.C. §§9601 *et seq.*, the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and the Solid and Hazardous Waste Amendments of 1984, 42 U.S.C. §§6901 *et seq.*, the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977, 33 U.S.C. §§1251 *et*

*seq.*, the Clean Air Act of 1966, as amended, 42 U.S.C. §§7401 *et seq.*, the Toxic Substances Control Act of 1976, 15 U.S.C. §§2601 *et seq.*, the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. §7401 *et seq.*, the portions of the Occupational Safety and Health Act of 1970, as amended, 29 U.S.C. §§651 *et seq.*, concerning the health or safety of persons with respect to environmental hazards, the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C. §§11001 *et seq.*, the National Environmental Policy Act of 1975, 42 U.S.C. §§4321 *et seq.*, the Safe Drinking Water Act of 1974, as amended, 42 U.S.C. §§300(f) *et seq.*, and any similar or implementing state law, and all amendments, rules, and regulations promulgated thereunder.

“**Equipment Loan**” means any term loan made pursuant to Section 2.1(a).

“**Equipment Loan Amount**” means the aggregate principal amount of Equipment Loans made pursuant to Section 2.01(a).

“**Equipment Loan Availability Period**” shall mean the period from and including April 30, 2021 through and including April 30, 2022.

“**Equipment Loan Commitment**” shall mean Bank’s commitment to make or otherwise fund a term loan pursuant to Section 2.01(a). The aggregate amount of the Equipment Loan Commitment is Three Million Dollars (\$3,000,000).

“**Equipment Loan Maturity Date**” means April 30, 2027.

“**Equipment Note**” means the Equipment Loan Note, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence the Equipment Loan, including any amendment, modification, renewal, extension or replacement thereof.

“**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time-to-time.

“**ERISA Affiliate**” means any trade or business, whether or not incorporated, that together with the subject Person would be treated as a single employer under ERISA.

“**Excess Cash Flow**” means, for each fiscal year of Borrower determined on a consolidated basis, the sum of (a) Adjusted EBITDA, **minus** (b) cash interest expense, **minus** (c) cash taxes paid or cash distributions made for payment of taxes, **minus** (d) principal payments paid in respect of long-term Indebtedness (excluding any principal reduction on Term Loan 9 or Term Loan 10, in each case, with respect to Excess Cash Flow and excluding principal payments on the Revolving Credit Facility), **minus** (e) Unfunded Capital Expenditures.

“**Excess Cash Flow Percentage**” means, for any fiscal year end, fifty percent (50%) of the Excess Cash Flow for such fiscal year.

“**Facilities**” means the Equipment Loan, the Term Loans, the Revolving Credit Facility, and any other credit facility provided by Bank from time to time pursuant to this Agreement.

“**Financial Contract**” of a Person means (a) any exchange-traded or over-the-counter futures, forward, swap or option contract or other financial instrument with similar characteristics, (b) any agreements, devices or arrangements providing for payments related to fluctuations of interest rates, exchange rates or forward rates, including, but not limited to, interest rate exchange agreements, forward currency exchange agreements, interest rate cap or

collar protection agreements, forward rate currency or interest rate options, or (c) to the extent not otherwise included in the foregoing, any rate hedging agreement.

“**Financial Statements**” means the financial statements of Borrower furnished from time to time pursuant to Section 5.2(a) hereof, together with any accompanying notes or other disclosures to such financial statements, and any other documents or data furnished to Bank in connection therewith.

“**Fixed Charge Coverage Ratio**” means for the applicable Test Period, the ratio resulting from dividing (i) Adjusted EBITDA minus (a) Unfunded Capital Expenditures, minus (b) the aggregate amount of cash payments of income taxes for such Test Period by (ii) Fixed Charges for such Test Period.

“**Fixed Charges**” means in accordance with GAAP for the applicable Test Period the sum in total for Borrower and its Consolidated Subsidiaries (without duplication): (a) the aggregate cash payments of interest made for such period, including interest paid on the Obligations, including subordinated debt, the interest portion of all Capital Lease Obligations, and any other cash payments of interest on any other Indebtedness for such period; plus (b) the aggregate principal amount of Indebtedness which was paid during such applicable test period, including under the Obligations and Subordinated Debt; and plus (c) the principal portion of the aggregate amount of Capital Lease Obligations.

“**Fort Collins Deed of Trust**” means that certain Deed of Trust, Security Agreement, Assignment of Rents and Leases and Fixture Filing duly executed by Bronco Research in favor of Bank encumbering the Fort Collins Property dated December 1, 2019, as modified, and as the same may be from time to time further supplemented, modified or amended.

“**Fort Collins Property**” means the real property located at 1512 Webster Court, Fort Collins, Colorado, more particularly described in Exhibit A to the Fort Collins Deed of Trust.

“**GAAP**” means generally accepted accounting principles in the United States of America in effect from time to time as promulgated by the Financial Accounting Standards Board and recognized and interpreted by the American Institute of Certified Public Accountants.

“**Governmental Authority**” means 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 any government, including, without limiting the generality of the foregoing, any agency, body, commission, court or department thereof whether federal, state, local or foreign.

“**Guarantor**” means each Domestic Subsidiary that executes and delivers to Bank a Guaranty pursuant to Section 3.2.

“**Guaranty**” means the Amended and Restated Guaranty, in the form prescribed by Bank, duly executed by each Domestic Subsidiary of the Borrower to Bank in connection with the Obligations, including any amendment or replacement thereof.

“**Hazardous Materials**” mean (a) any “**hazardous substance**,” as defined by CERCLA, (b) any “**hazardous waste**,” as defined by the Resource Conservation and Recovery Act, as amended, (c) any petroleum product, or (d) any pollutant or contaminant or hazardous, dangerous or toxic chemical, material or substance within the meaning of any other federal, state or local law, regulation, ordinance or requirement (including consent decrees and administrative

orders) relating to, or imposing liability or standards of conduct concerning, any hazardous, toxic or dangerous waste, substance or material, all as amended or hereafter amended.

“**HTL**” means HistoTox Labs, Inc., a Colorado corporation.

“**HTL Acquisition**” means the acquisition by I-B HTL of all of the assets of HTL as provided in the HTL Acquisition Agreement.

“**HTL Acquisition Agreement**” means the Asset Purchase Agreement dated as of April 13, 2021, by and among I-B HTL (as purchaser), HTL (as seller), John Bishop (as the sole stockholder of HTL), and Borrower (as parent).

“**HTL Acquisition Documents**” means the HTL Acquisition Agreement and all other documents ancillary thereto related to the HTL Acquisition.

“**IB**” means Inotiv Boulder, LLC, an Indiana limited liability company.

“**I-B HTL**” means Inotiv-Boulder HTL, LLC, an Indiana limited liability company.

“**Improvements**” means the improvements and fixtures now located or to be constructed on the Property.

“**Indebtedness**” means (a) all items (except items of capital surplus, of general contingency reserves or of retained earnings, deferred income taxes, and amount attributable to minority interests, if any) which in accordance with GAAP would be included in determining total liabilities on a consolidated basis as shown on the liability side of a balance sheet as at the date as of which Indebtedness is to be determined, (b) all indebtedness secured by any mortgage, pledge, lien or conditional sale or other title retention agreement to which any property or asset owned or held is subject, whether or not the indebtedness secured thereby will have been assumed (excluding non-Capital Leases which may amount to title retention agreements but including Capital Leases), and (c) all indebtedness of others which Borrower or any Subsidiary or any Affiliate has directly or indirectly guaranteed, endorsed (otherwise than for collection or deposit in the ordinary course of business), discounted or sold with recourse or agreed (contingently or otherwise) to purchase or repurchase or otherwise acquire, or in respect of which Borrower or any Subsidiary has agreed to apply or advance funds (whether by way of loan, stock purchase, capital contribution or otherwise) or otherwise to become directly or indirectly liable. Indebtedness does not include any SBA PPP Loan until such time as such SBA PPP Loan is not forgiven by the SBA.

“**Inotiv**” means Inotiv, Inc. (formerly known as Bioanalytical Systems, Inc.), an Indiana corporation.

“**Investment**” of a Person means 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 trade) or contribution of capital by such Person; stocks, bonds, mutual funds, partnership interests, limited liability company ownership interests, notes, debentures or other securities owned by such Person; any deposit accounts and certificate of deposit owned by such Person; and structured notes, derivative financial instruments and other similar instruments or contracts owned by such Person. The amount of any Investment as of any date of determination shall be the fair value of the consideration therefor at the time of the making such Investment less any principal payments or other returns of capital received in respect thereof.

“**Lien**” means any lien (statutory or other), security interest, mortgage, pledge, hypothecation, assignment for the purpose of security, deposit arrangement for the purpose of security, encumbrance or preference, priority or other security agreement of any kind or nature whatsoever (including, without limitation, the interest of a vendor or lessor under any conditional sale, Capital Lease or other title retention agreement).

“**Life Insurance Policy**” means the life insurance policy issued by Protective Life Insurance Company on the life of Robert Leasure, Jr. in the aggregate amount of not less than Five Million Dollars (\$5,000,000), such life insurance policy assigned to Bank on November 27, 2019 as collateral for all obligations of Borrower now existing or hereafter arising in favor of Bank, and maintained while any Obligations of Borrower exist under the Agreement.

“**Loan Documents**” means this Agreement, the Notes, the Mortgages, the Security Agreement, the Guaranty, any UCC Financing Statements in connection with the Security Agreement and all other documents executed and delivered by Borrower to govern, evidence or secure the Facilities.

“**Loss**” shall have the meaning ascribed in Section 8.9 hereof.

“**Material Adverse Change**” means any event, circumstance or condition that could reasonably be expected to have a Material Adverse Effect.

“**Material Adverse Effect**” means a material adverse effect on (a) the business, operations, financial condition, Properties or prospects of Borrower and its Subsidiaries, taken as a whole, (b) the ability of Borrower and the Guarantors, taken as a whole, to perform the Obligations, (c) the validity or enforceability of the Loan Documents, or (d) the rights and remedies of Bank under any of the Loan Documents.

“**Moody's**” means Moody's Investors Service, Inc., or any successor thereto that is a nationally recognized rating agency.

“**Mortgage**” or “**Mortgages**” means individually or collectively as the context requires, the Fort Collins Deed of Trust, the Mount Vernon Mortgage, and the West Lafayette Mortgage.

“**Mount Vernon Mortgage**” means, collectively, (i) that certain Amended and Restated Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, duly executed by Borrower in favor of Bank encumbering the Mount Vernon Property dated September 28, 2018, as modified and as the same may be from time to time further supplemented, modified or amended, and (ii) that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing, duly executed by Borrower in favor of Bank encumbering the Mount Vernon Property dated September 23, 2017, as modified and as the same may be from time to time further supplemented, modified or amended.

“**Mount Vernon Property**” means the real property located at 10424 Middle Mount Vernon Road, Mount Vernon, Indiana, more particularly described in Exhibit A to the Evansville Mortgages.

“**Notes**” means, collectively, the Revolving Credit Note, Term Note 1, Term Note 2, Term Note 3, Term Note 4, Term Note 5, Term Note 6, Term Note 7, Term Note 8, Term Note 9, Term Note 10, Term Note 11, the Equipment Note, and any subsequent notes issued by Borrower in favor of Bank under this Agreement.

“**Obligations**” means all loans, advances, indebtedness, liabilities and obligations of Borrower and its Consolidated Subsidiaries (without duplication) owed to Bank and/or the Affiliates of Bank of every kind and description whether now existing or hereafter arising, and whether direct or indirect, primary or as guarantor or surety, absolute or contingent, liquidated or unliquidated, matured or unmatured, whether or not secured by additional collateral, in each case arising under this Agreement, the Notes and the other Loan Documents, including without limitation all obligations to perform or forbear from performing acts and all reasonable expenses and reasonable attorneys’ fees incurred by Bank and any Affiliate of Bank under this Agreement or any other document or instrument related to any of the foregoing.

“**PBGC**” means the Pension Benefit Guaranty Corporation established pursuant to ERISA, or any successor entity.

“**Permitted Encumbrances**” means (a) Liens securing (i) current taxes and assessments not yet due and payable or (ii) taxes being contested by Borrower in good faith and by appropriate proceedings for which adequate reserves have been set aside on Borrower’s books to the extent required by generally accepted accounting principles, (b) Liens and encumbrances, if any, reflected or noted on such balance sheet or notes thereto, (c) [Reserved], (d) any security interests, pledges, assignments or mortgages granted to Bank to secure the repayment or performance of the Obligations, (e) non-consensual statutory Liens (other than Liens securing the payment of taxes) arising in the ordinary course of Borrower’s business (including such Liens in favor of landlords, warehousemen and mechanics and similar Liens) to the extent such Liens secure Indebtedness or other obligations relating to claims or liabilities which are being contested in good faith by appropriate proceedings, in each case prior to the commencement of foreclosure or other similar proceedings and with respect to which adequate reserves have been set aside on its books in accordance with GAAP, (f) zoning restrictions, easements, licenses, covenants and other restrictions affecting the use of real property which do not interfere in any material respect with the use of such real property or ordinary conduct of the business of Borrower thereon or materially impair the value of the real property which may be subject thereto, (g) purchase money security interests in equipment (including Capital Leases), (h) pledges and deposits of cash by Borrower in the ordinary course of business in connection with workers’ compensation, unemployment insurance and other types of social security benefits, and (i) those further Liens (if any) shown on Schedule 1 attached hereto.

“**Person**” means and includes an individual, a partnership, a joint venture, a corporation, a limited liability company, a trust, an unincorporated association and a Governmental Authority.

“**Plan**” means an employee pension benefit plan that is covered by Title IV of ERISA or subject to the minimum funding standards under Section 412 of the Code as to which a Borrower may have any liability.

“**Prime Advance**” means an Advance when and to the extent that the interest rate applicable thereto is determined by reference to the Prime Index.

“**Prime Index**” means, for any day, the Prime Rate identified in the “Money Rates” section of *The Wall Street Journal* on the date the interest rate is to be determined, or if that date is not a publication date, on the publication date immediately preceding. The Prime Index is not necessarily the lowest rate charged by Bank on its loans. If the Prime Index becomes unavailable, Bank may designate a reasonable substitute index after notifying Borrower. Bank will inform Borrower of the current Prime Index upon Borrower’s request. Any changes or

adjustments to the interest rate based on the Prime Index will not occur more often than each day. Borrower understands that Bank may make loans based on rates other than the Prime Index.

“**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.

“**Qualified Investments**” means (a) obligations of, or fully guaranteed by, the United States of America or any agency thereof and having a maturity of not more than one year from the date of acquisition, (b) commercial paper rated A-1 or better by S&P or P-1 or better by Moody's, (c) demand deposit accounts maintained in the ordinary course of business, (d) certificates of deposit and time deposits issued by commercial banks having capital and surplus in excess of One Hundred Million Dollars (\$100,000,000), (e) repurchase obligations with a term of not more than seven (7) days for underlying securities of the types described in clauses (a) and (d) above; (f) any commercial paper or finance company paper issued by (i) Bank or (ii) any other Person organized and existing under the laws of the United States of America or any state thereof whose debt securities are rated, at the time of the acquisition thereof, not less than P-1 or A-1 or their equivalents by Moody's or S&P or their successors, (g) marketable direct obligations issued by any state of the United States of America or any political subdivision of any such state or any public instrumentality thereof, in each case maturing within one year after such date and having, at the time of the acquisition thereof, ratings not less than P-1 or A-1 or their equivalents by Moody's or S&P or their successors, and (h) money-market mutual funds that invest solely in the investments set forth in any of items (a) through (e), inclusive, above.

“**Real Estate**” means individually or collectively as the context requires, the Fort Collins Property, the Mount Vernon Property, and the West Lafayette Property.

“**Release**” means any release, spill, emission, leaking, pumping, injection, deposit, disposal, discharge, dispersal, leaching or migration into the environment, including the movement of a Hazardous Substance through or in the air, soil, surface water or groundwater.

“**Responsible Officer**” means any of the chairman, the president, the chief executive officer, the chief operating officer, any vice president, the treasurer or the primary accounting or financial officer of the Borrower, or such other representative of the Borrower as may be designated in writing by any one of the foregoing with the consent of Bank.

“**Revolving Credit Facility**” means the secured revolving line of credit in the maximum principal amount of Five Million Dollars (\$5,000,000), governed by this Agreement, including any renewal or extension thereof.

“**Revolving Credit Loan**” means any term loan made pursuant to Section 2.1(b).

“**Revolving Credit Maturity Date**” means May 31, 2023.

“**Revolving Credit Note**” means the Amended and Restated Revolving Note, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Advances under the Revolving Credit Facility, including any amendment, modification, renewal, extension or replacement thereof.

“**Run-Rate Cost-Savings & Synergies**” means the amount of “run rate” cost savings, operating expense reductions and synergies related to the acquisition of certain assets of BBP and/or HTL projected by the Borrower in good faith to result from actions taken or expected to

be taken within twelve (12) months after the Closing Date. The “run rate” cost savings, operating expense reductions and synergies shall be:

(a) calculated on a pro forma basis as though such “run rate” cost savings, operating expense reductions and synergies had been realized on the first day of the period for which consolidated EBITDA is being determined, net of the amount of actual benefits realized during such period.

(b) reasonably identifiable and factually supportable (in the good faith determination of the Borrower); and

(c) in any Test Period shall not exceed fifteen percent (15.00%) of consolidated trailing twelve (12) month period EBITDA, calculated before giving effect thereto, for such test period determined on a pro forma basis.

“**S&P**” means S&P Global Ratings, a division of S&P Global Inc., and any successor thereto that is a nationally recognized rating agency.

“**Sale and Leaseback Transaction**” means any sale or other transfer of any property by any Person with the intent to lease such property as lessee.

“**Sanctioned Country**” means, at any time, a country or territory that is the subject or target of any Sanctions (at the time of this Agreement, Cuba, Iran, North Korea and Syria).

“**Sanctioned Person**” means, at any time, (a) any Person listed in any Sanctions-related list of designated Persons maintained by the Office of Foreign Assets Control of the U.S. Department of the Treasury, the U.S. Department of State, or by the United Nations Security Council, the European Union or any European Union member state, (b) any Person operating, organized or resident in a Sanctioned Country or (c) any Person owned or controlled by any such Person or Persons described in the foregoing clauses (a) or (b).

“**Sanctions**” economic or financial sanctions or trade embargoes imposed, administered or enforced from time to time by (a) the U.S. government, including those administered by the Office of Foreign Assets Control of the U.S. Department of the Treasury or the U.S. Department of State, or (b) the United Nations Security Council, the European Union, any European Union member state or Her Majesty’s Treasury of the United Kingdom.

“**SBA**” means the U.S. Small Business Administration.

“**SBA PPP Loan**” means a loan in the principal amount of Five Million Fifty-One Thousand Two Hundred Eighty-Two Dollars (\$5,051,282) incurred by the Borrower under 15 U.S.C. 636(a)(36) (as added to the Small Business Act by Section 1102 of the CARES Act) from The Huntington National Bank.

“**SBA PPP Loan Date**” means the date on which the Borrower receives the proceeds of the SBA PPP Loan.

“**Security Agreement**” means the Amended and Restated General Security and Pledge Agreement, in the form prescribed by Bank, duly executed by Borrower and Guarantors in favor of Bank to secure the Obligations, including any amendment or modification thereof.

“**Seller Debt**” means (i) the Indebtedness of Borrower owed to Phillip Bendele in the original principal amount of \$750,000; (ii) the Indebtedness of Borrower owed to Alison Bendele in the original principal amount of \$750,000; (iii) the Indebtedness of BASi Gaithersburg owed

to Smithers Avanza Toxicology Services LLC, a Delaware limited liability company, in the original principal amount of \$810,000; and, (iv) the Indebtedness of Bronco Research owed to Pre-Clinical Research Services, Inc., a Colorado corporation, in the original principal amount of \$800,000.

“**Senior Funded Debt to Adjusted EBITDA Ratio**” means, for the applicable Test Period, the ratio of (a) all Indebtedness owed to the Bank by the Borrower (including, but not limited to, short-term Indebtedness and long-term Indebtedness), **minus** (b) Unrestricted Cash up to \$2,500,000 to (c) Adjusted EBITDA.

“**Seventh Wave Indiana**” means Seventh Wave Laboratories LLC, an Indiana limited liability company (formerly known as Cardinal Laboratories LLC).

“**Stated Maturity**” means, with respect to any Indebtedness, the date specified in the governing documents thereof as the fixed date on which the final or only, as the case may be, payment of principal of such Indebtedness is due and payable, including pursuant to any mandatory redemption provision (but excluding any provision providing for the repurchase of such Indebtedness at the option of the holder thereof upon the happening of any contingency beyond the control of the issuer).

“**Subordinated Debt**” means Indebtedness of Borrower that is subordinated in writing to the full, final and irrevocable payment of the Obligations, in form and substance acceptable to Bank, including, but not limited to, the Seller Debt.

“**Subordination Agreement**” means each Subordination Agreement executed by a holder of Subordinated Debt, in the form prescribed by Bank, including any amendment or modification thereof, including, but not limited to, (i) that certain Subordination Agreement by and among Borrower, Phillip Bendele, and the Bank dated as of April 30, 2021, (ii) that certain Subordination Agreement by and among Borrower, Alison Bendele, and the Bank dated as of April 30, 2021, (iii) that certain Subordination Agreement by and among BASi Gaithersburg, Smithers Avanza Toxicology Services LLC, and the Bank dated as of May 1, 2019, and (iv) that certain Subordination Agreement by and among Bronco Research, Pre-Clinical Research Services, Inc., and the Bank dated as of December 1, 2019.

“**Subsidiaries**” means, as to any Person, (a) a corporation of which shares of stock or other ownership interests having ordinary voting power (other than stock or other ownership interests having such power only by reason of the happening of a contingency) to elect a majority of the members of the board of directors or other managers of such corporation are at the time owned, or the management of which is otherwise controlled, directly or indirectly through one or more intermediaries, or both, by such Person, and (b) any partnership, association, joint venture or other entity in which such Person and/or one or more Subsidiaries of such Person has more than a fifty percent (50%) equity interest.

“**Taxes**” shall have the meaning ascribed in Section 2.8 hereof.

“**Term Loan 1**” means the secured term loan in the principal amount of Three Million Nine Hundred Seventy-Nine Thousand Six Hundred Forty-Four and 46/100 Dollars (\$3,979,644.46), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 1 Maturity Date**” means March 28, 2025.

“**Term Loan 2**” means the secured term loan in the principal amount of Three Million Five Hundred Seventy-One Thousand Three Hundred Fifteen and 61/100 Dollars (\$3,571,315.61), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 2 Maturity Date**” means July 2, 2023.

“**Term Loan 3**” means the secured term loan in the principal amount of One Million Seventy-Six Thousand Two Hundred Twenty-Nine and 80/100 Dollars (\$1,076,229.80), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 3 Maturity Date**” means March 28, 2025.

“**Term Loan 4**” means the secured term loan in the principal amount of One Million One Thousand Nine Hundred Thirty-Four and 49/100 Dollars (\$1,001,934.49), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 4 Maturity Date**” means November 1, 2025.

“**Term Loan 5**” means the secured term loan in the principal amount of Eight Hundred Ten Thousand Eight Hundred Sixty-Nine and 23/100 Dollars (\$810,869.23), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 5 Maturity Date**” means June 30, 2025.

“**Term Loan 6**” means the secured term loan in the principal amount of Two Million Eight Hundred Sixty-Four Thousand Six Hundred Eighty-One Dollars (\$2,864,681), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 6 Maturity Date**” means December 31, 2025.

“**Term Loan 7**” means the secured term loan in the principal amount of One Million Two Hundred Sixty-Two Thousand Eight Hundred Ninety-Four and 43/100 Dollars (\$1,262,894.43), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 7 Maturity Date**” means June 1, 2025.

“**Term Loan 8**” means the secured term loan in the principal amount of One Million Eight Hundred Fifty-Two Thousand Eight Hundred Twelve and 69/100 Dollars (\$1,852,812.69), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 8 Maturity Date**” means December 1, 2024.

“**Term Loan 9**” means the secured term loan in the principal amount of Ten Million Dollars (\$10,000,000), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 9 Maturity Date**” means April 30, 2026.

“**Term Loan 10**” means the secured term loan in the principal amount of Five Million Dollars (\$5,000,000), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 10 Maturity Date**” means April 30, 2026.

“**Term Loan 11**” means the secured term loan in the principal amount of Three Million Six Hundred Twenty-Two Thousand Three Hundred Eight and 44/100 Dollars (\$3,622,308.44), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 11 Maturity Date**” means June 23, 2022.

“**Term Loans**” means Term Loan 1, Term Loan 2, Term Loan 3, Term Loan 4, Term Loan 5, Term Loan 6, Term Loan 7, Term Loan 8, Term Loan 9, Term Loan 10, and Term Loan 11.

“**Term Note 1**” means the Amended and Restated Term Loan Note 1, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 1, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 2**” means the Amended and Restated Term Loan Note 2, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 2, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 3**” means the Amended and Restated Term Loan Note 3, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 3, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 4**” means the Amended and Restated Term Loan Note 4, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 4, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 5**” means the Amended and Restated Term Loan Note 5, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 5, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 6**” means the Amended and Restated Term Loan Note 6, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 6, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 7**” means the Amended and Restated Term Loan Note 7, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 7, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 8**” means the Amended and Restated Term Loan Note 8, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 8, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 9**” means the Term Loan Note 9, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 9, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 10**” means the Term Loan Note 11, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 10, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 11**” means the Amended and Restated Term Loan Note 12, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 11, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Notes**” means Term Note 1, Term Note 2, Term Note 3, Term Note 4, Term Note 5, Term Note 6, Term Note 7, Term Note 8, Term Note 9, Term Note 10, and Term Note 11.

“**Termination Value**” means, in respect of any one or more Financial Contracts, after taking into account the effect of any legally enforceable netting agreement relating to such Financial Contracts, (a) for any date on or after the date such Financial Contracts have been

closed out and termination value(s) determined in accordance therewith, such termination value(s), and (b) for any date prior to the date referenced in clause (a), the amount(s) determined as the mark-to-market value(s) for such Financial Contracts, as determined based upon one or more mid-market or other readily available quotations provided by any recognized dealer in such Financial Contracts.

“**Test Period**” means each twelve (12) month period ending at the end of each fiscal quarter. The first Test Period shall be the Test Period ending on June 30, 2021.

“**Title Company**” means (i) with respect to the West Lafayette Property, and the Mount Vernon Property, First American Title Insurance Company, and ), and (ii) with respect to the Fort Collins Property, Land Title Guarantee Company, as applicable.

“**Transaction Costs**” means all transaction fees, charges, and other amounts related to the Transactions and any Permitted Acquisitions (including, without limitation, any financing fees, merger and acquisition fees, legal fees and expenses, due diligence fees or any other fees and expenses in connection therewith), in each case to the extent paid within six (6) months of the closing of the Facility or such Permitted Acquisition, as applicable, and approved by the Bank in its reasonable discretion.

“**Transactions**” means the Acquisitions, the Subordinated Debt incurred in connection with the Acquisitions and all other transactions contemplated by this Agreement or any other Loan Document.

“**Unfunded Capital Expenditures**” shall equal the sum of Capital Expenditures excluding funds borrowed under the Equipment Loan or for certain Capital Expenditures greater than (a) \$2,220,000 for the purchase and capital improvements of the Maryland Heights, Missouri location, plus (b) \$10,000,000 for other capital improvements as approved by Bank. For purposes of calculating Unfunded Capital Expenditures, Capital Expenditures will be derived from the Statement of Cash Flows of the Borrower and its Subsidiaries for such applicable Test Period.

“**Unmatured Default**” means any event that with notice, or lapse of time, or both, would constitute a Default.

“**Unrestricted Cash**” means the sum in total for Borrower and its Consolidated Subsidiaries (without duplication) cash or cash equivalents that would not appear as “restricted” on a consolidated balance sheet of Borrower as of the last day of such applicable Test Period.

“**West Lafayette Mortgages**” means, collectively, (i) that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing executed by Borrower in favor of Bank encumbering the West Lafayette Property dated June 23, 2017, as modified and as the same may be from time to time further supplemented, modified or amended, (ii) that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing executed by Borrower in favor of Bank encumbering the West Lafayette Property dated June 23, 2017, as modified and as the same may be from time to time further supplemented, modified or amended, and (iii) that certain Mortgage, Security Agreement, Assignment of Rents and Leases and Fixture Filing executed by Borrower in favor of Bank encumbering the West Lafayette Property dated July 2, 2018, as modified and as the same may be from time to time further supplemented, modified or amended.

“**West Lafayette Property**” means the real property located at 2701 Kent Avenue, West Lafayette, Indiana, more particularly described in Exhibit A to the West Lafayette Mortgage.

Section 1.2. **Rules of Construction.** The foregoing definitions shall be equally applicable to both the singular and plural forms of the defined terms. Use of the terms “**herein**” “**hereof**”, and “**hereunder**” shall be deemed references to this Agreement in its entirety and not to the Section clause in which such term appears.

Section 1.3. **Accounting Terms.** All accounting terms not specifically defined herein shall be construed in accordance with GAAP consistent with those applied in the preparation of the Financial Statements. In the event of any change after the date hereof in GAAP, and if such change would affect the computation of any of the financial covenants set forth in Section 5.3 hereof, then the parties hereto agree to endeavor, in good faith, to agree upon an amendment to this Agreement that would adjust such financial covenants in a manner that would preserve the original intent thereof, but would allow compliance therewith to be determined in accordance with the Financial Statements at that time, provided that, until so amended such financial covenants shall continue to be computed in accordance with GAAP prior to such change therein.

## Article 2. CREDIT

### Section 2.1. Commitments.

(a) **Equipment Loan.** Subject to the terms and conditions hereof, Bank agrees to make to Borrower, and Borrower may request, on any Business Day during the Equipment Loan Availability Period, term loans to Borrower in an aggregate principal amount of Bank’s Equipment Loan Commitment. Notwithstanding any other provision of this Agreement, any outstanding Equipment Loan Commitment shall automatically terminate upon the earlier of (x) any funding of the maximum amount of the Equipment Loan pursuant to this Section 2.1(a) and (y) at 5:00 p.m., Indianapolis time, on the last Business Day of the Equipment Term Loan Availability Period (whether or not any term loans are incurred on such Business Day). The Equipment Loan shall be evidenced by the Equipment Note.

(b) **Revolving Credit Facility.** Subject to the terms and conditions of this Agreement, Bank shall make Advances under the Revolving Credit Facility available to Borrower in the amount equal to the lesser of (a) Five Million Dollars (\$5,000,000) or (b) the Borrowings Base. Advances under the Revolving Credit Facility shall be evidenced by the Revolving Credit Note.

(c) **Term Loan 1.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 1 to Borrower in the principal amount of Three Million Nine Hundred Seventy-Nine Thousand Six Hundred Forty-Four and 46/100 Dollars (\$3,979,644.46). The Term Loan 1 shall be evidenced by the Term Note 1.

(d) **Term Loan 2.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 2 to Borrower in the principal amount of Three Million Five Hundred Seventy-One Thousand Three Hundred Fifteen and 61/100 Dollars (\$3,571,315.61). The Term Loan 2 shall be evidenced by the Term Note 2.

(e) **Term Loan 3.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 3 to Borrower in the principal amount of One Million

Seventy-Six Thousand Two Hundred Twenty-Nine and 80/100 Dollars (\$1,076,229.80). The Term Loan 3 shall be evidenced by the Term Note 3.

(f) **Term Loan 4.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 4 to Borrower in the principal amount of One Million One Thousand Nine Hundred Thirty-Four and 49/100 Dollars (\$1,001,934.49). The Term Loan 4 shall be evidenced by the Term Note 4.

(g) **Term Loan 5.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 5 to Borrower in the principal amount of Eight Hundred Ten Thousand Eight Hundred Sixty-Nine and 23/100 Dollars (\$810,869.23). The Term Loan 5 shall be evidenced by the Term Note 5.

(h) **Term Loan 6.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 6 to Borrower in the principal amount of Two Million Eight Hundred Sixty-Four Thousand Six Hundred Eighty-One Dollars (\$2,864,681). The Term Loan 6 shall be evidenced by the Term Note 6.

(i) **Term Loan 7.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 7 to Borrower in the principal amount of One Million Two Hundred Sixty-Two Thousand Eight Hundred Ninety-Four and 43/100 Dollars (\$1,262,894.43). The Term Loan 7 shall be evidenced by the Term Note 7.

(j) **Term Loan 8.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 8 to Borrower in the principal amount of One Million Eight Hundred Fifty-Two Thousand Eight Hundred Twelve and 69/100 Dollars (\$1,852,812.69). The Term Loan 8 shall be evidenced by the Term Note 8.

(k) **Term Loan 9.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 9 to Borrower in the principal amount of Ten Million Dollars (\$10,000,000). The Term Loan 9 shall be evidenced by the Term Note 9.

(l) **Term Loan 10.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 10 to Borrower in the principal amount of Five Million Dollars (\$5,000,000). The Term Loan 10 shall be evidenced by the Term Note 10.

(m) **Term Loan 11.** Subject to the terms and conditions of this Agreement, Bank shall make the Term Loan 11 to Borrower in the principal amount of Three Million Six Hundred Twenty-Two Thousand Three Hundred Eight and 44/100 Dollars (\$3,622,308.44). The Term Loan 11 shall be evidenced by the Term Note 11.

## Section 2.2. **Interest.**

(a) **Equipment Loan.** Prior to maturity, the outstanding principal balance of the Equipment Loan shall bear interest at a fixed per annum rate equal to four percent (4.00%).

(b) **Revolving Credit Facility.** Prior to maturity, the outstanding principal balance of Advances under the Revolving Credit Facility shall bear interest at a per annum rate equal to the Prime Index plus zero percent (0.00%), provided that the interest rate accruing after the Closing Date shall not be less than four percent (4.00%) per annum.

- (c) **Term Loan 1.** Prior to maturity, the outstanding principal balance of the Term Loan 1 shall bear interest at a fixed per annum rate equal to five and two-tenths percent (5.20%).
- (d) **Term Loan 2.** Prior to maturity, the outstanding principal balance of the Term Loan 2 shall bear interest at a fixed per annum rate equal to five and six-hundredths percent (5.06%).
- (e) **Term Loan 3.** Prior to maturity, the outstanding principal balance of the Term Loan 3 shall bear interest at a fixed per annum rate equal to five and two-tenths percent (5.20%).
- (f) **Term Loan 4.** Prior to maturity, the outstanding principal balance of the Term Loan 4 shall bear interest at a fixed per annum rate equal to four and sixty-three hundredths percent (4.63%).
- (g) **Term Loan 5.** Prior to maturity, the outstanding principal balance of the Term Loan 5 shall bear interest at a fixed per annum rate equal to four percent (4.00%).
- (h) **Term Loan 6.** Prior to maturity, the outstanding principal balance of the Term Loan 6 shall bear interest at a fixed per annum rate equal to four and one-quarter percent (4.25%).
- (i) **Term Loan 7.** Prior to maturity, the outstanding principal balance of the Term Loan 7 shall bear interest at a fixed per annum rate equal to four percent (4.00%).
- (j) **Term Loan 8.** Prior to maturity, the outstanding principal balance of the Term Loan 8 shall bear interest at a fixed per annum rate equal to four percent (4.00%).
- (k) **Term Loan 9.** Prior to maturity, the outstanding principal balance of the Term Loan 9 shall bear interest at a fixed per annum rate equal to three and eighty-five hundredths percent (3.85%).
- (l) **Term Loan 10.** Prior to maturity, the outstanding principal balance of the Term Loan 10 shall bear interest at a fixed per annum rate equal to three and eighty-five hundredths percent (3.85%).
- (m) **Term Loan 11.** Prior to maturity, the outstanding principal balance of the Term Loan 11 shall bear interest at a fixed per annum rate equal to three and ninety-nine hundredths percent (3.99%).
- (n) **General.** Interest shall be due and payable for the exact number of days principal is outstanding and shall be calculated on the basis of a three hundred sixty (360) day year to the extent permitted by law. After the maturity of any Facility, whether by acceleration or otherwise, and while and so long as there shall exist any Default, at the option of Bank and to the extent permitted by law, (i) the Facilities shall bear interest at the Default Rate, and (ii) any unpaid accrued interest may be added to principal and such amount shall bear interest therefrom until paid at the rates provided in this Agreement (including any increased rate).

### Section 2.3. **Payments of Principal and Interest.**

- (a) **Equipment Loan.** Upon a draw, interest on the outstanding balance under the Equipment Loan from time to time throughout the term of the Equipment Loan shall

be due and payable on the first (1<sup>st</sup>) day of each calendar month, commencing on the first (1<sup>st</sup>) day of the month following the draw and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter. At the end of the Equipment Loan Availability Period, Borrower shall pay, in addition to any required interest payments, monthly installments of principal based on a five (5) year amortization schedule. A final installment representing the entire unpaid principal of the Equipment Loan, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Equipment Loan Maturity Date.

(b) **Revolving Credit Facility.** Commencing on June 1, 2021 and continuing on the first (1<sup>st</sup>) day of each month thereafter up to and including the Revolving Credit Maturity Date, Borrower shall pay to Bank interest-only payments. The entire principal balance of Advances under the Revolving Credit Facility, together with all accrued and unpaid interest thereon, and all fees and charges payable in connection therewith, shall be due and payable on the Revolving Credit Maturity Date.

(c) **Term Loan 1.** Commencing on May 1, 2021, and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Thirty-Five Thousand Seven Hundred Ninety-Six and 58/100 Dollars (\$35,796.58). A final installment representing the entire unpaid principal balance of the Term Loan 1, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 1 Maturity Date.

(d) **Term Loan 2.** Commencing on May 2, 2021, and continuing on the second (2<sup>nd</sup>) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Seventy-Eight Thousand Ninety-One and 42/100 Dollars (\$78,091.42). A final installment representing the entire unpaid principal balance of the Term Loan 2, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 2 Maturity Date.

(e) **Term Loan 3.** Commencing on May 1, 2021, and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Thirty-One Thousand Eight Hundred Nineteen and 06/100 Dollars (\$31,819.06). A final installment representing the entire unpaid principal balance of the Term Loan 3, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 3 Maturity Date.

(f) **Term Loan 4.** Commencing on May 1, 2021, and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Twenty Thousand Two Hundred Eighty-Eight and 97/100 Dollars (\$20,288.97). A final installment representing the entire unpaid principal balance of the Term Loan 4, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 4 Maturity Date.

(g) **Term Loan 5.** Commencing on May 1, 2021, and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter, Borrower shall pay monthly installments of

principal and interest in the amount of Seventeen Thousand Four Hundred Ninety-One and 84/100 Dollars (\$17,491.84). A final installment representing the entire unpaid principal balance of the Term Loan 5, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 5 Maturity Date.

(h) **Term Loan 6.** Commencing on May 1, 2021, and continuing on the first (1st) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Fifty-Five Thousand Six Hundred Sixty-Six and 06/100 Dollars (\$55,666.06). A final installment representing the entire unpaid principal balance of the Term Loan 6, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 6 Maturity Date.

(i) **Term Loan 7.** Commencing on May 1, 2021, and continuing on the first (1st) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Twenty-Seven Thousand Six Hundred Sixty-Five and 19/100 Dollars (\$27,665.19). A final installment representing the entire unpaid principal balance of the Term Loan 7, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 7 Maturity Date.

(j) **Term Loan 8.** Commencing on May 1, 2021, and continuing on the first (1st) day of each calendar month thereafter, Borrower shall pay monthly installments of principal and interest in the amount of Eleven Thousand Eight Hundred Ten and 06/100 Dollars (\$11,810.06). A final installment representing the entire unpaid principal balance of the Term Loan 8, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 8 Maturity Date.

(k) **Term Loan 9.** Commencing on June 1, 2021, and continuing on the first (1st) day of each calendar month thereafter, Borrower shall pay to Bank monthly installments of principal and interest in the amount of One Hundred Eighty-Three Thousand Seven Hundred Fifty-Five and 41/100 Dollars (\$183,755.41) per month. A final installment representing the entire unpaid principal balance of the Term Loan 9, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 9 Maturity Date.

(l) **Term Loan 10.** Commencing on June 1, 2021, and continuing on the first (1st) day of each calendar month thereafter, Borrower shall pay to Bank monthly installments of principal and interest in the amount of Ninety-One Thousand Eight Hundred Seventy-Seven and 71/100 Dollars (\$91,877.71) per month. A final installment representing the entire unpaid principal balance of the Term Loan 10, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 10 Maturity Date.

(m) **Term Loan 11.** Commencing on May 23, 2021, and continuing on the twenty-third (23rd) day of each calendar month thereafter, Borrower shall pay to Bank monthly installments of principal and interest in the amount of Thirty-Three Thousand Two Hundred Sixty-Nine and 91/100 Dollars (\$33,269.91) per month. A final installment representing the entire unpaid principal balance of the Term Loan 11, and all accrued and

unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on the Term Loan 11 Maturity Date.

(n) **Method of Payment.** All payments of principal and interest hereunder shall be made in immediately available funds to Bank at Bank's address set forth on the signature page hereof or at any other place specified in writing by Bank to Borrower, by Noon (Indianapolis time) on the date when due. Bank is hereby authorized to charge the account of Borrower when due for each payment of principal, interest and/or fees due under this Agreement.

(o) **Banking Day.** If any installment of principal or interest provided herein becomes due and payable on a date other than a Banking Day, the maturity of the installment of principal or interest shall be extended to the next succeeding Banking Day, and interest shall be payable during such extension of maturity.

(p) **Late Payment Fees.** If Borrower fails to pay any amount due hereunder, or any fee in connection herewith, in full within ten (10) days after its due date, Borrower, in each case, shall incur and shall pay a late charge equal to the greater of Twenty-Five Dollars (\$25.00) or five percent (5.00%) of the unpaid amount, with a minimum late charge in each instance of Twenty-Five Dollars (\$25.00). After acceleration of the Obligations by the Bank, the payment of a late charge will not cure or constitute a waiver of any Default.

(q) **Application of Payments.** All amounts which shall be paid with respect to the Notes shall be applied first to the payment of interest due on the balance of the principal sum or so much thereof as shall from time to time remain unpaid, second to any costs of collection and expenses reimbursable by the Borrower to the Bank, third to escrow amounts due, fourth to the principal amount of the Notes which may then be currently due and payable, and last to any late charges then due and payable under the Notes.

#### Section 2.4. **Prepayment.**

(a) **Prepayment of Notes.** Borrower may prepay the outstanding principal balance of each Note only in accordance with the terms and conditions set forth in such Note, as applicable.

(b) **Mandatory Prepayments.** In addition to the principal payments required pursuant to this Agreement, and without limiting the other provisions of the Loan Documents, Borrower shall make the following additional principal payments to be applied as mandatory prepayments:

(c) **Excess Cash Flow.** Commencing with the fiscal year ending September 30, 2021 and for each fiscal year thereafter until the Term Loan 9 and/or Term Loan 10, in each case, are paid in full, Borrower shall prepay the Facilities on the following January 31, in an amount equal to the applicable Excess Cash Flow Percentage of Excess Cash Flow for such fiscal year (provided that for the fiscal year ending September 30, 2021 Excess Cash Flow shall be calculated only for the period from the date hereof through September 30, 2021), **minus** the amount of voluntary prepayments of the Term Loan 9 pursuant to Section 2.4(l) and/or the Term Loan 10 pursuant to Section 2.4(m), in each case, and voluntary prepayments of Advances under the Revolving Credit Facility

pursuant to Section 2.4, in each case, made during such fiscal year. Each Excess Cash Flow prepayment shall be accompanied by a certificate signed by a Responsible Officer certifying the manner in which Excess Cash Flow and the resulting prepayment were calculated, which certificate shall be in form reasonably satisfactory to Bank.

(d) **Application.** All such amounts pursuant to Section 2.4 shall be applied, on a pro rata basis, to prepay the Term Loan 9 (to be applied to installments in inverse order of maturity) and the Term Loan 10 (to be applied to installments in inverse order of maturity).

(e) **General.** All partial principal prepayments shall be first applied on a pro rata basis to any outstanding principal balance of the Term Loan 9 and the Term Loan 10, and then, at Bank's discretion, to the outstanding principal balance of the other Facilities.

#### Section 2.5. **Use of Proceeds.**

(a) **Equipment Loan.** Advances under the Equipment Loan shall be used to fund equipment needs of the Borrower as approved by Bank.

(b) **Revolving Credit Facility.** Advances under the Revolving Credit Facility shall be used for general working capital purposes of Borrower.

(c) **Term Loan 1.** The proceeds of the Term Loan 1 funded construction of an 11,300 square foot building expansion on the Mount Vernon Property.

(d) **Term Loan 2.** The proceeds of the Term Loan 2 supported the acquisition of Seventh Wave Indiana and for general working capital purposes.

(e) **Term Loan 3.** The proceeds of the Term Loan 3 funded the equipment needs for the construction of an 11,300 square foot building expansion on the Mount Vernon Property.

(f) **Term Loan 4.** The proceeds of the Term Loan 4 funded the acquisition of BASi Gaithersburg and for general business purposes.

(g) **Term Loan 5.** The proceeds of the Term Loan 5 funded equipment needs of Borrower and its Consolidated Subsidiaries.

(h) **Term Loan 6.** The proceeds of the Term Loan 6 funded equipment needs of Borrower and its Consolidated Subsidiaries.

(i) **Term Loan 7.** The proceeds of the Term Loan 7 funded the acquisition of the assets of PreClinical Research Services, Inc. and for general business purposes.

(j) **Term Loan 8.** The proceeds of the Term Loan 8 funded the acquisition of the Fort Collins Property and all improvements thereon, and for general business purposes.

(k) **Term Loan 9.** The proceeds of the Term Loan 9 shall be used to finance the BBP Acquisition.

(l) **Term Loan 10.** The proceeds of the Term Loan 10 shall be used to finance the HTL Acquisition.

(m) **Term Loan 11.** The proceeds of the Term Loan 11 refinanced Borrower's debt with The Huntington Bank for general business purposes.

Section 2.6. **Fees.**

(a) **Facility Fees.** On the date hereof, Borrower shall pay to Bank (i) a non-refundable facility fee equal to Thirty Thousand Dollars (\$30,000) for the Equipment Loan, (ii) a non-refundable facility fee equal to Fifty Thousand Dollars (\$50,000) for the Revolving Credit Facility, (iii) a non-refundable facility fee equal to One Hundred Fifty Thousand Dollars (\$150,000) for the Term Loan 9, and, (iv) a non-refundable facility fee equal to Seventy-Five Thousand Dollars (\$75,000) for the Term Loan 10.

(b) **General.** The compensation provided in this Section 2.6 shall be in consideration of the services of Bank in connection with the Facilities and shall be in addition to any other fee, charge, payment or expense required to be borne by Borrower under the Loan Documents.

Section 2.7. **Method of Advance.**

(a) **Equipment Loan and/or Revolving Credit Facility.** As Borrower desires to obtain Advances under the Equipment Loan and/or the Revolving Credit Facility, in each case, hereunder, Borrower shall give Bank notice of Borrower's intention to borrow by not later than 11:00 a.m. (Indianapolis time), on the proposed Banking Day of borrowing. Each request for an Advance shall promptly be confirmed in writing if Bank so requires and shall in and of itself constitute a representation and warranty that the conditions precedent to such Advance as set forth in Section 6.2 hereof have been satisfied and that no Default or Unmatured Default has occurred and is continuing or would result from the making of the requested Advance. Borrower hereby authorizes the disbursement of each Advance under the Equipment Loan and/or the Revolving Credit Facility by deposit to the applicable account of Borrower with Bank.

(b) **General.** All Advances by Bank under the Facilities and, payments by Borrower on the Facilities, shall be recorded by Bank on its books and records, and the principal amount outstanding from time to time, plus interest payable thereon, shall be determined from the books and records of Bank. The books and records of Bank shall be presumed prima facie correct as to such matters.

Section 2.8. **Taxes.**

(a) **General.** All payments by Borrower under this Agreement or the Notes shall be made free and clear of, and without deduction or withholding for, any present or future income, stamp or other taxes, levies, duties, imposts, charges or fees or any related penalties, interest or other liabilities imposed by a Governmental Authority having jurisdiction (“**Taxes**”). If any Taxes are required to be deducted or withheld from any amount payable to Bank under this Agreement or the Notes, Borrower shall pay additional amounts so that the amount received by Bank after the deduction of such Taxes (including Taxes on such additional amounts) equals the amount that Bank would have received if no Taxes had been deducted. Borrower shall pay to the appropriate taxing authority all Taxes required to be deducted or withheld. Within thirty (30) days after paying any such Taxes, Borrower shall deliver to Bank the original or a certified copy of the receipt for such payment. Notwithstanding the foregoing, Borrower shall not be required to pay any amounts to Bank on account of any Taxes, including, but not limited to, income, franchise, excise and branch profits taxes, imposed solely by reason

of a present or past connection between Bank and the jurisdiction imposing such Taxes (except a connection arising solely from the execution, delivery, performance, enforcement of or the receipt of payments under this Agreement or the Notes).

(b) **Tax Indemnity.** Borrower shall indemnify Bank against any Taxes imposed on (and any related expenses reasonably incurred by) Bank on account of the execution, delivery, performance or enforcement of or the receipt of payments under this Agreement or the Notes other than Taxes specified in the last sentence of Section 2.8(a) hereof. Borrower also shall pay and indemnify Bank against any stamp or other documentary, or similar levies, imposts, or charges (or any related liability) arising from the execution, delivery, registration, performance or enforcement of this Agreement or the Notes.

Section 2.9. **Yield Protection.** If, after the date of this Agreement, the adoption of any law or any governmental or quasi-governmental rule, regulation, policy, guideline or directive (whether or not having the force of law), or any change in the interpretation or administration thereof by any governmental or quasi-governmental authority, central bank or comparable agency charged with the interpretation or administration thereof, or compliance by Bank with any request or directive (whether or not having the force of law) (each a “**Change in Law**”) of any such authority, central bank or comparable agency:

(a) subjects Bank to any Taxes, or changes the basis of taxation of payments (other than with respect to Taxes specified in the last sentence of Section 2.8(a) hereof) to Bank in respect of its Prime Advances, or

(b) imposes or increases or deems applicable any reserve, assessment, insurance charge, special deposit or similar requirement against assets of, deposits with or for the account of, or credit extended by, Bank (other than reserves and assessments taken into account in determining the interest rate applicable to Prime Advances), or

(c) imposes any other condition the result of which is to increase the cost to Bank of making, funding or maintaining its Prime Advances or reduces any amount receivable by Bank in connection with its Prime Advances, or requires Bank to make any payment calculated by reference to the amount of Prime Advances held or interest received by it, by an amount deemed material by Bank, and the result of any of the foregoing is to increase the cost to Bank of making or maintaining its Prime Advances or commitment or to reduce the return received by Bank in connection with such Prime Advances or commitment, then, within fifteen (15) days of demand by Bank, Borrower shall pay Bank such additional amount or amounts as will compensate Bank for such increased cost or reduction in amount received.

Notwithstanding the foregoing, for purposes of this Agreement all requests, rules, guidelines or directives in connection with the Dodd-Frank Act shall be deemed to be a Change in Law, regardless of the date enacted, adopted or issues, shall be deemed a Change in Law regardless of the date enacted, adopted or issued.

Section 2.10. **Changes in Capital Adequacy Regulations.** If Bank reasonably determines that the amount of capital required or expected to be maintained by Bank or any corporation controlling Bank is increased as a result of a Change, then, within thirty (30) days of demand by Bank, Borrower shall pay Bank the amount necessary to compensate for any shortfall

in the rate of return on the portion of such increased capital that Bank reasonably determines is attributable to this Agreement, the Facilities or its commitment to make Advances hereunder (after taking into account Bank's policies as to capital adequacy). “**Change**” means (a) any change after the date of this Agreement in the Risk-Based Capital Guidelines, or (b) any adoption of or change in any other law, governmental or quasi-governmental rule, regulation, policy, guideline, interpretation, or directive (whether or not having the force of law) after the date of this Agreement that affects the amount of capital required or expected to be maintained by Bank or any corporation controlling Bank. “**Risk-Based Capital Guidelines**” means the risk-based capital guidelines in effect in the United States on the date of this Agreement, including transition rules, and any amendments to such regulations adopted prior to the date of this Agreement.

Notwithstanding the foregoing, for purposes of this Agreement all requests, rules, guidelines or directives in connection with the Dodd-Frank Act shall be deemed to be a Change, regardless of the date enacted, adopted or issued.

Section 2.11. **Setting and Notice of Prime Index.** The applicable Prime Index shall be determined by Bank. Each determination of the applicable Prime Index by Bank shall be conclusive and binding upon the parties hereto, absent manifest error. Bank shall, upon written request of Borrower, deliver to Borrower a statement showing the computations utilized by Bank in determining any applicable Prime Index hereunder. Notwithstanding anything to the contrary in this Agreement or any other Loan Document, if Bank reasonably determines (which determination shall be conclusive absent manifest error), or Borrower notifies Bank that Borrower has determined, that adequate and reasonable means do not exist for ascertaining the Prime Index, including, without limitation, because the Prime Index is not published on a current basis, and such circumstances are unlikely to be temporary.

Section 2.12. **Bank Statements; Survival of Indemnity.** To the extent reasonably possible, Bank shall designate an alternate lending installation with respect to its Prime Advances to reduce any liability of Borrower to Bank under Section 2.8, Section 2.9 and Section 2.10, so long as such designation is not, in the judgment of Bank, disadvantageous to Bank in any material respect. Bank shall deliver a written statement to Borrower as to the amount due, if any, under Section 2.8, Section 2.9, or Section 2.10. Such written statement shall set forth in reasonable detail the calculations upon which Bank determined such amount and shall be presumed correct in the absence of demonstrable error. Determination of amounts payable under such Sections in connection with a Prime Advance shall be calculated as though Bank funded its Prime Advance through the purchase of a deposit of the type and maturity corresponding to the deposit used as a reference in determining the Prime Index applicable to such Prime Advance, whether in fact that is the case or not as Bank may fund each of its Prime Advances in any manner it sees fit, and the foregoing assumption shall be utilized only for the calculation of amounts payable under this Section. Unless otherwise provided herein, the amount specified in the written statement of Bank shall be payable on demand after receipt by Borrower of such written statement. The obligations of Borrower under Section 2.8, Section 2.9, and Section 2.10 shall survive payment of the Obligations and termination of this Agreement.

### Article 3. SECURITY AND GUARANTY

Section 3.1. **Security.** In consideration of the Bank's entry into this Agreement and the other Loan Documents, and as security for the prompt payment when due of all sums of

principal, purchase price, and interest advanced by the Bank pursuant to the Notes as well as for payment of any other sums owing pursuant to this Agreement, or any of the other Loan Documents, together with any and all extensions, renewals, modifications and amendments thereof and as security for the performance and observance of all of the covenants, agreements and conditions contained in the this Agreement and all of the other Loan Documents, Borrower shall, at its sole expense, deliver or cause to be delivered to the Bank and record or cause to be recorded, if appropriate, the following documents, each of which shall be in such form and content, and executed by such persons and/or entities, as the Bank shall in its sole discretion require:

- (a) the ALTA Policy;
- (b) the Mortgages;
- (c) the Security Agreement constituting a first priority security interest in all Accounts, Inventory, Equipment, General Intangibles, Chattel Paper, Fixtures, Goods, Intellectual Property, Deposit Accounts, Instruments, Investment Property, Documents and all other personal property of Borrower and each Guarantor now owned or hereafter acquired, and all Proceeds thereof;
- (d) the Assignment of the Life Insurance Policy;
- (e) the Guaranty; and,
- (f) such other security interests as may be described in the Loan Documents.

**Section 3.2. Addition of Guarantors; Addition of Pledged Capital Stock and other Collateral.** Borrower shall cause each Domestic Subsidiary that is a Subsidiary as of the date of this Agreement or at any time thereafter, to deliver to Bank an executed Guaranty and appropriate corporate resolutions, opinions and other documentation in form and substance reasonably satisfactory to Bank, such Guaranty and other documentation to be delivered to Bank as promptly as is reasonably possible but in any event within thirty (30) days following the date of determination that a Subsidiary is required to be added as a Guarantor. Simultaneously with any Subsidiary becoming a Guarantor, Borrower shall (or, if the capital stock of such Subsidiary is owned by another Domestic Subsidiary, shall cause such other Subsidiary to) deliver to Bank an executed supplement to the existing Security Agreement or a new pledge agreement, together with appropriate corporate resolutions, opinions, stock certificates, UCC filings or amendments and other documentation, in each case in form and substance reasonably satisfactory to Bank and Bank shall be reasonably satisfied that it has a first priority perfected pledge of all of the capital stock of such Guarantor owned by Borrower and its Subsidiaries. Simultaneously with any Subsidiary becoming a Guarantor, or upon Borrower or a Subsidiary acquiring any real estate that Bank requires to be mortgaged to secure the Obligations, Borrower shall, or shall cause such Subsidiary to, (i) execute and deliver a Security Agreement and a mortgage, if applicable (and deliver the other documents required thereby); and (ii) deliver such other documentation as Bank may reasonably require in connection with the foregoing, including, without limitation, appropriate UCC financing statements, environmental reports, title insurance, surveys, UCC searches, certified resolutions and other organizational and authorizing documents of such Subsidiary, favorable opinions of counsel to such Subsidiary (which shall cover, among other things, the legality, validity, binding effect and enforceability of the documentation referred to above and the perfection of Bank's liens thereunder) and other items of the types required to be

delivered by Borrower pursuant to Section 6.1 as of the closing date, all in form, content and scope reasonably satisfactory to Bank.

Section 3.3. **Additional Collateral/Setoff.** Borrower hereby grants to Bank (and any participant of the Facilities), as additional security for the Obligations, a continuing lien upon all monies, securities and other property of Borrower now or hereafter held or received by, or in transit to, Bank from or for Borrower. If a Default has occurred and is continuing, Bank (and any such participant of the Facilities) is authorized and shall have the right, at any time and from time to time, without prior notice to Borrower, to set off, appropriate and apply its own debt or liability to Borrower, or to any other Person liable for the Obligations, in whole or partial payment of any Obligation in such order or manner as Bank may reasonably determine, without any requirements of mutual maturity. Bank shall endeavor, without obligation, to provide such subsequent notice of a set off as is reasonably practicable under the circumstances, provided, that the failure to give such notice shall not affect the validity of such set off and application.

## Article 4. REPRESENTATIONS AND WARRANTIES

Borrower represents, covenants and warrants to Bank as follows:

Section 4.1. **Due Organization.** Borrower and each Subsidiary is a corporation or limited liability company duly organized, validly existing and, if applicable, in good standing under and by virtue of the laws of its state of organization.

Section 4.2. **Due Qualification.** Borrower and each Subsidiary are qualified, in good standing and authorized to do business as a foreign corporation or limited liability company in such other states wherein the failure to so qualify would have a Material Adverse Effect.

Section 4.3. **Corporate or Limited Liability Company Power.** Borrower and each Subsidiary possess the requisite power to enter into the Loan Documents and the Acquisition Documents, as applicable, to borrow under the Loan Documents, to execute and deliver the Loan Documents and the Acquisition Documents and to perform its obligations thereunder.

Section 4.4. **Corporate or Limited Liability Company Authority.** Borrower and each Subsidiary have taken the necessary corporate or limited liability company action to authorize the execution and delivery of the Loan Documents and the Acquisition Documents, and the borrowings under the Loan Documents and the granting of the security interests therein, and none of the provisions of the Loan Documents or the Acquisition Documents violate, breach, contravene, conflict with, or cause a default under any provision of the articles of incorporation or articles of organization, as applicable, or bylaws or operating agreement, as applicable, of Borrower or such Subsidiary or any provision of any material existing note, bond, mortgage, debenture, indenture, trust, license, lease, instrument, decree, order, judgment, or agreement to which Borrower or such Subsidiary is a party or by which it or its assets may be bound or affected.

Section 4.5. **Financial Statements.** The Borrower's annual Financial Statements are audited financial statements.

Section 4.6. **No Material Adverse Change; No Material Adverse Effect.** The information submitted by Borrower to Bank, taken as a whole, discloses all known or anticipated material liabilities, direct or contingent, of Borrower as of the dates thereof, and since such dates, there has been no Material Adverse Change. Since December 31, 2020 with respect to the date

hereof, or thereafter the date of the most recent audited financial statements delivered to Bank pursuant to Section 5.2(a), there has been no event or change in the assets, liabilities, financial condition or operation of Borrower and its Subsidiaries that, individually or in the aggregate, could reasonably be expected to have, or has had, a Material Adverse Effect.

Section 4.7. **Subsidiaries.** As of the date of this Agreement, **Schedule 4.7** (a) contains a description of the organizational structure of Borrower its Subsidiaries and any other Person in which Borrower or any of its Subsidiaries holds an equity interest (both narratively and in chart form) as of the date of this Agreement; and (b) as of the date of this Agreement, accurately sets forth (i) the correct legal name, the jurisdiction of incorporation or organization, as applicable and the jurisdictions in which Borrower and each of the direct or indirect Subsidiaries of Borrower is qualified to transact business as a foreign corporation or limited liability company, as applicable, (ii) the authorized, issued and outstanding equity securities of Borrower and each of its Subsidiaries and the owners of such securities (both as of the date hereof and on a fully-diluted basis), and (iii) a summary of the direct and indirect partnership, joint venture, or other equity interests, if any, of Borrower and each Subsidiary of Borrower in any Person that is not a corporation. Except as described on **Schedule 4.7**, none of the issued and outstanding equity securities of the Borrower or any of its Subsidiaries is subject to any vesting, redemption, or repurchase agreement, and there are no warrants or options outstanding with respect to such equity securities, as of the date of this Agreement. The outstanding equity securities of the Borrower and each of its Subsidiaries are duly authorized, validly issued, fully paid and nonassessable.

Section 4.8. **Binding Obligations.** Each of the Loan Documents, when issued for value, will constitute a legal, valid and binding obligation of Borrower, enforceable against Borrower in accordance with its terms, except as the same may be limited by reorganization, bankruptcy, insolvency, moratorium or other laws affecting generally the enforcement of creditors' rights, and by principles of equity.

Section 4.9. **Marketable Title.** Borrower and each Subsidiary has good and marketable title to all of its Real Estate and good title to all of its other Properties shown on the Financial Statements, except such Properties as have been disposed of since the date of the Financial Statements in the ordinary course of business. Except for Permitted Encumbrances, (a) the assets of Borrower and its Subsidiaries are not subject to any Lien, and the security interests in favor of Bank under the Loan Documents will constitute first, senior and prior perfected security interests in the collateral therein described, and (b) no effective financing statement or similar instrument that names Borrower or its Subsidiaries as debtor or relates to any of its Property, has been filed in any state or other jurisdiction and remains unreleased, and Borrower and its Subsidiaries have not signed any financing statement or similar instrument or security agreement (other than the Loan Documents) authorizing the secured party thereunder to file any such financing statement or similar instrument.

Section 4.10. **Indebtedness.** Except as shown on the Financial Statements, except as set forth on **Schedule 4.10** hereto, and except as permitted by Section 5.1(f), neither Borrower nor any Subsidiary has any outstanding Indebtedness.

Section 4.11. **Default.** Neither Borrower nor any Subsidiary has committed or suffered to exist any default or any circumstance that with notice, lapse of time, or both, would constitute a material default under the terms and conditions of any material trust, debenture, indenture,

note, bond, instrument, mortgage, lease, agreement, order, decree, or judgment to which Borrower and its Subsidiaries is a party or by which it or its assets may be bound or affected.

Section 4.12. **Tax Returns.** All tax returns or reports of Borrower and its Subsidiaries required by law have been filed prior to delinquency (taking into account any permitted extensions), and all taxes, assessments, contributions, fees and other governmental charges (other than those presently payable without penalty or interest and those currently being contested in good faith and against which adequate reserves have been established) upon Borrower, its Subsidiaries or their assets, properties or income have been paid prior to delinquency.

Section 4.13. **Litigation.** Except as set forth on any **Schedule 4.13** hereto, no litigation or proceeding of any Governmental Authority or other Person is presently pending or threatened, nor has any claim been asserted, against Borrower or its Subsidiaries that, in either case, if adversely determined, could reasonably be expected to have a Material Adverse Effect.

Section 4.14. **ERISA.** Except as could not reasonably be expected to have a Material Adverse Effect, Borrower and each ERISA Affiliate is in compliance in all material respects with all applicable provisions of ERISA, and neither Borrower nor any ERISA Affiliate has incurred any liability to the PBGC with regard to a Plan. Neither a “**reportable event**” nor a “**prohibited transaction**” has occurred under a Plan, nor has there occurred any complete or partial withdrawal from, nor has there occurred any other event that would constitute grounds for termination of or the appointment of a trustee to administer any Plan or any “**multi-employer plan**”, as such term is defined in Section 3(40) of ERISA, maintained for employees of Borrower or any ERISA Affiliate, all within the meanings ascribed by ERISA, except, in each case, to the extent that the same could not reasonably be expected to have a Material Adverse Effect.

Section 4.15. **Full Disclosure.** The information, exhibits, schedules, memoranda and reports (excluding estimated future operating results) furnished by Borrower to Bank in connection with the negotiation of the Facilities, taken as a whole, do not contain any material misstatement of fact, or omit to state any fact necessary to make the statements contained therein not materially misleading in light of the circumstances when made. All estimated future operating results, if furnished, were prepared on the basis of assumptions, data, information, tests or other conditions believed to be valid or accurate or to exist at the time such estimates were prepared and furnished. To Borrower’s knowledge, on the date hereof there exists no fact or circumstance relative to Borrower, whether or not disclosed, that management of Borrower anticipates could reasonably be expected to have a Material Adverse Effect. As of date hereof, to the knowledge of Borrower, the information included in any Beneficial Ownership Certification provided on or prior to the date hereof to Bank in connection with this Agreement is true and correct in all respects.

Section 4.16. **Contracts of Surety.** Except for the endorsements of Borrower or a Subsidiary of negotiable instruments for deposit or collection in the ordinary course of business, and except as otherwise permitted by Section 5.1(f), neither Borrower nor any Subsidiary is a party to any contract of guaranty or surety.

Section 4.17. **Licenses.** Borrower and each Subsidiary possesses such franchises, licenses, permits, patents, copyrights, trademarks, and consents of appropriate Governmental Authorities to own its Property and as are necessary to carry on its business, except where the failure to obtain any of the foregoing, singularly or in aggregate, could not reasonably be expected to have a Material Adverse Effect.

Section 4.18. **Compliance with Law.** Borrower and each Subsidiary are in compliance with all applicable requirements of law and of all Governmental Authorities, to the extent any failure to comply could reasonably be expected to have a Material Adverse Effect.

Section 4.19. **Force Majeure.** Neither the business nor the properties of Borrower or a Subsidiary are presently affected by any fire, explosion, accident, strike, lockout or other labor dispute, drought, storm, hail, earthquake, embargo, act of God or of the public enemy or other casualty that could reasonably be expected to have a Material Adverse Effect.

Section 4.20. **Margin Stock.** Borrower is not engaged in the business of extending credit for the purpose of purchasing or carrying margin stock (within the meaning of Regulation U of the Board of Governors of the Federal Reserve System), and no part of the proceeds of the Facilities will be used, either directly or indirectly, for the purpose, whether immediate, incidental or remote, of purchasing or carrying any margin stock or of extending credit to others for the purpose of purchasing or carrying any margin stock in violation of Regulation U, and Borrower shall furnish to Bank, upon its request, a statement in conformity with the requirements of Federal Reserve Board Form U-1 referred to in Regulation U. Further, no part of the proceeds of the Facilities will be used for any purpose that violates the provisions of Regulations T, U or X of the Board of Governors.

Section 4.21. **Approvals.** No authorization, consent, approval or any form of exemption of any Governmental Authority is required in connection with the execution and delivery by Borrower of the Loan Documents or the Acquisition Documents, the borrowings and performance by Borrower thereunder or the issuance of the Notes, except those that have been obtained and except where the failure to obtain same could not reasonably be expected to have a Material Adverse Effect.

Section 4.22. **Solvency.**

(a) Immediately after the consummation of the transactions to occur concurrently with the initial Advance, (i) the fair value of the assets of Borrower and its Subsidiaries, taken as a whole, at a fair valuation, will exceed their debts and liabilities, subordinated, contingent or otherwise; (ii) the present fair saleable value of the property of Borrower and its Subsidiaries, taken as a whole, will be greater than the amount that will be required to pay the probable liability of their debts and other liabilities, subordinated, contingent or otherwise, as such debts and other liabilities become absolute and matured; (iii) Borrower and its Subsidiaries, taken as a whole, will be able to pay their debts and liabilities, subordinated, contingent or otherwise, as such debts and liabilities become absolute and matured; and (iv) Borrower and its Subsidiaries, taken as a whole, will not have unreasonably small capital with which to conduct the business in which they engaged as such business is now conducted.

(b) Borrower and its Subsidiaries do not intend to, and do not believe they will, incur debts beyond their ability, taken as a whole, to pay such debts as they mature, taking into account the timing of and amounts of cash to be received by them and the timing of the amounts of cash to be payable on or in respect of their Indebtedness.

Section 4.23. **Investment Company Act.** Borrower is not required to be registered, nor is it regulated, as an “investment company” within the meaning of the Investment Company Act of 1940, as amended.

Section 4.24. **Environmental Matters.**

- (a) Except as disclosed on **Schedule 4.29** as of the date of this Agreement:
- (i) the operations of Borrower and its Subsidiaries comply in all material respects with Environmental Laws;
  - (ii) Borrower and its Subsidiaries have all permits, licenses or other authorizations required under Environmental Laws;
  - (iii) neither Borrower, nor any of its Subsidiaries nor any of their respective present Property or operations, or, to the best of, Borrower's or any of its Subsidiaries' knowledge, any of their respective past Property or operations, are subject to or the subject of, any investigation known to Borrower or any of its Subsidiaries, any judicial or administrative proceeding, order, judgment, decree, settlement or other agreement respecting: (A) any material violation of Environmental Laws; (B) any remedial action; or (C) any material claims or liabilities arising from the Release or threatened Release of a Hazardous Substance into the environment;
  - (iv) there is not now, nor to the best of Borrower's or any of its Subsidiaries' knowledge has there ever been on or in the Property of Borrower or any of its Subsidiaries any landfill, waste pile, underground storage tanks, aboveground storage tanks, surface impoundment or hazardous waste storage facility of any kind, any polychlorinated biphenyls (PCBs) used in hydraulic oils, electric transformers or other equipment, or any asbestos-containing material that in any such case could reasonably be expected to result in material liability for Borrower or any of its Subsidiaries; and
  - (v) neither Borrower nor any of its Subsidiaries has any material contingent liability in connection with any Release or threatened Release of a Hazardous Substance into the environment.
- (b) For purposes of this Section 4.24, "material" means any noncompliance or basis for liability that could reasonably be likely to subject Borrower or a Subsidiary to liability in excess of \$200,000.

Section 4.25. **Material Agreements.** Neither Borrower nor any Subsidiary is a party to any agreement or instrument or subject to any charter or other corporate restriction that could reasonably be expected to have a Material Adverse Effect. Neither Borrower nor any Subsidiary is in default in the performance, observance or fulfillment of any of the obligations, covenants or conditions contained in (a) any agreement to which it is a party, which default could reasonably be expected to have a Material Adverse Effect or (b) any agreement or instrument evidencing or governing Indebtedness in an amount in excess of \$200,000.

Section 4.26. **Anti-Terrorism Laws.**

- (a) Borrower is not in violation of any Anti-Terrorism Law and does not engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in any Anti-Terrorism Law.

(b) Neither Borrower nor its agents acting or benefiting in any capacity in connection with the Facilities, or other transactions hereunder is any of the following (each a “**Blocked Person**”): (i) a Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (ii) a Person owned or controlled by, or acting for or on behalf of, any Person that is listed in the annex to, or is otherwise subject to the provisions of, Executive Order No. 13224; (iii) to Borrower's knowledge, a Person with which Bank is prohibited from dealing or otherwise engaging in any transaction by any Anti-Terrorism Law; (iv) a Person that commits, threatens or conspires to commit, or supports “terrorism” as defined in Executive Order No. 13224; (v) a Person that is named as a “specially designated national” on the most current list published by the United States Treasury Department's Office of Foreign Asset Control at its official website or any replacement website or other replacement official publication of such list; or (vi) a Person who is affiliated or associated with a Person listed above.

(c) Neither Borrower nor its agents acting or benefiting in any capacity in connection with the Facilities, or other transactions hereunder (i) conducts any business or engages in making or receiving any contribution of funds, goods or services to or for the benefit of any Blocked Person, or (ii) deals in, or otherwise engages in, any transaction relating to any property or interests in property blocked pursuant to Executive Order No. 13224.

Section 4.27. [**Reserved**].

Section 4.28. **Acquisitions.** The Acquisition Documents constitute the legally valid and binding obligation of Borrower, enforceable against Borrower in accordance with their terms, except as may be limited by reorganization, bankruptcy, insolvency, moratorium or other laws affecting generally the enforcement of creditors rights and general principles of equity. The execution, delivery and performance by Borrower of the Acquisition Documents, and the consummation of the transactions contemplated thereby, require no action, permit, license, authorization, certification, consent, approval, concession or franchise by or in respect of, or filing with, any Governmental Authority or any other Person, other than those described on **Schedule 4.28** hereto and those that have been obtained or waived by Borrower prior to the date hereof, and except where the failure to obtain same could not reasonably be expected to have a Material Adverse Effect. Except as disclosed on **Schedule 4.28** hereto, (a) the Financial Statements of the BBP and HTL for the fiscal year 2020 are audited financial statements, (b) Borrower has no knowledge that any Material Adverse Change has occurred since the date of such Financial Statements, (c) to the knowledge of Borrower, the representations and warranties of BBP, HTL, and each other party contained in the Acquisition Documents are true and correct in all material respects, (d) [**Reserved**], (e) none of the conditions to the closing of the Acquisitions contemplated by the Acquisition Documents have been waived by any party, (f) all transactions necessary to consummate the Acquisitions as described in the Acquisition Agreements have been consummated in all material respects in accordance with the terms and provisions thereof, and (g) all transactions necessary to consummate the Acquisitions as described in the Acquisition Agreements that are to occur prior to the date hereof have been consummated in all material respects in accordance with the terms and provisions thereof, and the only condition to the consummation of the Acquisitions in accordance with the Acquisition Agreements remaining to be satisfied hereunder is the delivery of funds sufficient to pay the

aggregate purchase price required to be paid under the Acquisition Agreements (which condition will be satisfied simultaneously with the initial Advance of the Facilities).

Section 4.29. **Conditions Precedent.** To Borrower's knowledge, each item furnished to Bank by Borrower pursuant to Section 6.1 hereof is a true and correct copy thereof, has not been modified or amended except as disclosed to Bank and is in full force and effect on the date hereof.

Section 4.30. **General.** All statements contained in any certificate or financial statement delivered by or on behalf of Borrower to Bank under any Loan Document shall constitute representations and warranties made by Borrower hereunder, subject to the terms thereof, as of the respective dates of such certificates or financial statements.

## Article 5. COVENANTS

Section 5.1. **Negative Covenants.** Until the Obligations shall have been fully and finally paid and performed, and so long as any commitment of Bank is outstanding, without the prior written consent of Bank, Borrower shall not and shall not permit any Subsidiary to:

(a) **Dispose of Property.** Sell, transfer, lease or otherwise dispose of its Properties except for (i) the sale or other disposition, in the ordinary course of business, of obsolete or worn-out property or other property of Borrower or any Subsidiary of Borrower not necessary for operations disposed of; (ii) the sale of inventory in the ordinary course of business; (iii) sales, transfers and dispositions between or among Borrower and Guarantors; (iv) dispositions of cash and Qualified Investments; (v) sales of delinquent receivables in the ordinary course of business in connection with the collection thereof; (vi) any sale or other disposition constituting a transaction otherwise expressly permitted by this Agreement; (vii) dispositions of equipment or real property to the extent that (x) such property is exchanged for credit against the purchase price of similar replacement property of substantially equivalent value (as reasonably determined by Borrower in its good faith) or (y) the proceeds of such disposition are reasonably promptly applied to the purchase price of such replacement property; (viii) leases, licenses, subleases or sublicenses (including the provision of open source software under an open source license) granted to others in the ordinary course of business and on ordinary commercial terms that do not interfere in any material respect with the business of Borrower and its Subsidiaries; (ix) dispositions of intellectual property rights that are no longer used or useful in the business of Borrower and its Subsidiaries; (x) the unwinding of any Financial Contract so long as the Termination Value associated therewith does not exceed \$200,000 at such time; and (xi) so long as no Unmatured Default or Default exists, sales, transfers and other dispositions of assets (other than equity interests in a Subsidiary) of Borrower and its Subsidiaries that are not permitted by any other clause of this Section; provided that the aggregate net book value of all assets sold, transferred or otherwise disposed of in reliance upon this clause (xii) shall not exceed \$200,000 in any fiscal year; and provided, further, that all sales, transfers, leases and other dispositions permitted by clauses (i) and (xii) above shall be made for fair value (as reasonably determined by Borrower in its good faith).

(b) **Further Encumber.** Except for Permitted Encumbrances, create or suffer to exist any Lien upon any of its Properties, whether now owned or hereafter acquired.

(c) **Merge, Division, Etc.** Other than pursuant to the Acquisition Documents, enter into any consolidation or merger with, or acquisition of, any Person or any substantial portion of its assets, or permit any other Person to merge into or consolidate with it, or liquidate or dissolve, or to spin-off or divide into two or more companies, except that (i) any Subsidiary may merge into the Borrower in a transaction in which the Borrower is the surviving corporation, (ii) any Subsidiary may merge into any other Subsidiary in a transaction in which the surviving entity is a Subsidiary and (if any party to such merger is a Guarantor) a Guarantor, (iii) any Subsidiary may liquidate or dissolve if the Borrower determines in good faith that such liquidation or dissolution is in the best interests of the Borrower and its Subsidiaries and is not materially disadvantageous to the Bank and, if such Subsidiary is a Guarantor, Bank is provided written notice of such liquidation or dissolution, and (iv) any disposition permitted by Section 5.1(a) and any Investment permitted by Section 5.1(g) may be structured as a merger or consolidation.

(d) **Purchase Stock.** Purchase, redeem, retire or otherwise acquire any of its outstanding shares except as permitted by Section 5.1(m).

(e) **Sell and Leaseback.** Enter into any Sale and Leaseback Transaction.

(f) **Indebtedness.** Create, incur, assume or suffer to exist any Indebtedness, except (i) Indebtedness created pursuant to the Loan Documents, other Indebtedness to Bank and any Bank Product Obligations; (ii) Indebtedness not in excess of \$200,000 at any one time outstanding, (iii) purchase money Indebtedness (including Capital Leases) to the extent secured by purchase money security interests in equipment (including Capital Leases) and, upon the prior written consent of Bank, purchase money mortgages on real property so long as such security interests and mortgages do not apply to any property of Borrower other than the equipment or real property so acquired, and the Indebtedness secured thereby does not exceed the cost of the equipment or real property so acquired, as the case may be, (iv) Indebtedness in the form of deposits or advances from customers pursuant to contracts (including purchaser orders) for services to be performed by Borrower in the ordinary course of business, and (v) other Indebtedness approved in writing by the Bank.

(g) **Investment.** Make any Investment, except (i) Qualified Investments; (ii) Investments existing on the date hereof and set forth on **Schedule 5.1(g)**, including any modification, replacement or extension thereof that does not increase the amount thereof in any material respect; (iii) Investments made (A) by a Borrower to or in any Guarantor and (B) by any Subsidiary to or a Borrower or any Guarantor; and (iv) Investments in connection with the consummation of the BBP Acquisition and the HTL Acquisition.

(h) **Guarantees.** Assume, guarantee or otherwise become liable as a guarantor or surety for the obligations of any Person, (i) except as permitted by Section 5.1(f), and (ii) except for those certain guaranties by Borrower of the obligations of IB and I-B HTL, respectively, owed to GPIF Flatiron Business Park, LLC or its successors and assigns, as landlord, in connection with the lease of real property located in Boulder, Colorado.

(i) **Change of Business.** Make any material change in the nature of its business; provided that nothing in this Section shall be deemed to prohibit a disposition

permitted under Section 5.1(a) or any merger, consolidation, liquidation or dissolution permitted by Section 5.1(c).

(j) **Reserved.**

(k) **Accounting Policies.** Change its fiscal year or any of its significant accounting policies, except to the extent necessary to comply with GAAP.

(l) **Reserved.**

(m) **Dividends/Distributions.** Borrower will not purchase or redeem any shares of the capital stock of Borrower or declare or pay any dividends thereon or make any other distributions to shareholders, except for dividends payable entirely in capital stock and stock repurchases in compliance with benefit plans in existence or hereafter adopted by Borrower.

(n) **Transactions with Owners and Affiliates.** Without the prior written consent of Bank, which consent shall not be unreasonably withheld, Borrower will not (a) directly or indirectly issue any guarantee for the benefit of any of its Affiliates, other than guarantees of the obligations of Guarantor to customers or suppliers in the ordinary course of business not to exceed \$500,000 in the aggregate, (b) directly or indirectly make any loans or advances to or investments in any of its Affiliates other than Guarantor, (c) enter into any transaction with any of its Affiliates, other than transactions entered into on an arm's length basis in the normal course of Borrower's business, or (d) divert (or permit anyone to divert) any of its business opportunities to any Affiliate or any other corporate or business entity in which Borrower or its members or members of its Board of Directors holds a direct or indirect interest, other than Guarantor.

(o) **Corporate Documents.** Amend, modify or otherwise change any of the terms or provisions in any of their respective articles of organization or operating agreement as in effect on the date hereof in any manner adverse to the interests of Bank, without the prior written consent of Bank.

(p) **Restrictive Agreements.** Enter into any agreement (excluding any restrictions existing under the Loan Documents) prohibiting (i) the creation or assumption of any Lien on any of its Properties, (ii) the ability of Borrower to amend or otherwise modify this Agreement or any other Loan Document, or (iii) the ability of any Subsidiary to make any payments, directly or indirectly, to Borrower by way of dividends, advances, repayments of loans or advances, reimbursements of management and other intercompany charges, expenses and accruals or other returns on investments, or any other agreement or arrangement that restricts the ability of any such Subsidiary to make any payment, directly or indirectly, to Borrower, provided that (A) the foregoing shall not apply to customary restrictions and conditions contained in agreements relating to the sale of a Subsidiary pending such sale, provided such restrictions and conditions apply only to the Subsidiary that is sold and such sale is permitted hereunder, and (B) clause (i) shall not apply to (x) restrictions or conditions imposed by any agreement relating to secured Indebtedness permitted by this Agreement if such restrictions and conditions apply only to the property or assets securing such Indebtedness, (y) customary provisions in leases restricting the assignment thereof and (z) nonconsensual restrictions imposed by the operation of law.

(q) **Government Regulation.** (i) Be or become subject at any time to any law, regulation, or list of any Governmental Authority (including, without limitation, the U.S. Office of Foreign Asset Control list) that prohibits or limits Bank from making any advance or extension of credit to Borrower or from otherwise conducting business with Borrower, (ii) fail to provide documentary and other evidence of Borrower's identity as Bank may reasonably request at any time to enable Bank to verify Borrower's identity or to comply with any applicable law or regulation, including, without limitation, any Anti-Terrorism Law; (iii) conduct any business or engage in any transaction or dealing with any Blocked Person, including the making or receiving of any contribution of funds, goods or services to or for the benefit of any Blocked Person; (iv) deal in, or otherwise engage in any transaction relating to, any property or interests in property blocked pursuant to Executive Order No. 13224; or (v) engage in or conspire to engage in any transaction that evades or avoids, or has the purpose of evading or avoiding, or attempts to violate, any of the prohibitions set forth in Executive Order No. 13224, the USA Patriot Act, or any other Anti-Terrorism Law.

(r) **Subordinated Debt Payments and other Prepayments.** Make any payment in respect of any of the Subordinated Debt except as permitted in the applicable Subordination Agreement, and nor voluntarily prepay any Indebtedness owing by a Borrower or a Subsidiary prior to the stated maturity date thereof other than (i) the Obligations, and (ii) Indebtedness to trade creditors where the prepayment results in a discount on the amount due.

Section 5.2. **Affirmative Covenants.** Until the Obligations shall have been fully and finally paid and performed, and so long as any commitment of Bank is outstanding, unless expressly waived in writing by Bank, Borrower shall:

(a) **Financial Reporting.** Furnish or caused to be furnished to Bank:

(i) as soon as publicly available in regulatory filings with the Securities and Exchange Commission, the Form 10-K consolidated financial statements of Borrower and its Subsidiaries as of the last day of each fiscal year then ended;

(ii) as soon as practicable, but in any event within one hundred twenty (120) days after the end of each fiscal year, commencing as of the last day of September 30, 2020 and for the fiscal year then ended, consolidated and consolidating financial statements of Borrower and its Subsidiaries audited and reported on (in the case of consolidated statements) by independent certified public accountants reasonably acceptable to Bank, including a balance sheet, statement of income and retained earnings and a statement of cash flows, with accompanying notes to financial statements, all prepared in accordance with GAAP on a consolidated and consolidating basis consistent with prior years unless specifically noted thereon, accompanied by the unqualified opinion of such accountants as to the consolidated statements, together with an annual budget for Borrower and updated certificate of insurance;

(iii) as soon as practicable, but in any event (A) within forty-five (45) days after the end of each of the first three fiscal quarters of each fiscal year, commencing with the quarter ending December 31, 2020, Borrower shall provide

interim consolidated financial statements of Borrower and its Subsidiaries reviewed by independent certified public accountants reasonably acceptable to Bank, and (B) within forty-five (45) days after the end of the last fiscal quarter of each fiscal year, commencing with the quarter ending September 30, 2021, Borrower shall provide internally-prepared interim consolidated financial statements of Borrower and its Subsidiaries, in each case including but not limited to, the financial statements required to be filed with the SEC as part of Borrower's Form 10-Q report;

(iv) within forty-five (45) days after the end of each fiscal quarter of each fiscal year, commencing with the quarter ending March 31, 2021, Borrower will provide a compliance certificate, in form and substance acceptable to Bank, showing Borrower's compliance with the financial covenants set forth in Section 5.3 hereof and including the certificate of a Responsible Officer of Borrower that there exists no Default or Unmatured Default under the Loan Documents, or if any Default or Unmatured Default exists, stating the nature and status thereof;

(v) within twenty (20) days after the end of each calendar month, commencing with the month ending March 31, 2021, a borrowing base certificate prepared by Borrower with supporting reports of accounts receivable invoice aging, accounts payable aging, and backlog report in a format acceptable to Bank;

(vi) as soon as possible, but in any event within ten (10) days after a Responsible Officer of Borrower becomes aware thereof, a written statement signed by a Responsible Officer of Borrower as to the occurrence of any Default or Unmatured Default, stating the specific nature thereof, Borrower's intended action to cure the same and the time period in which such cure is to occur;

(vii) as soon as possible, but in any event within thirty (30) days after the commencement thereof and service of process on Borrower, a written statement describing any litigation instituted by or against Borrower or any Subsidiary that alleges damages or liability in excess of \$200,000 or that, if adversely determined, could reasonably be expected to result in liability in excess of \$100,000 or otherwise cause a Material Adverse Effect;

(viii) as soon as possible, but in any event within thirty (30) days of receipt of any notice of any governmental investigation or proceeding commenced or threatened by any Governmental Authority against Borrower or any Subsidiary that alleges damages or liability in excess of \$200,000 or that, if adversely determined, could reasonably be expected to result in liability in excess of \$100,000 or otherwise cause a Material Adverse Effect;

(ix) as soon as possible, but in any event within thirty (30) days after Borrower becomes aware thereof, a written statement describing any reportable event or prohibited transaction that has occurred with respect to any Plan that involves liability in excess of \$200,000 or otherwise is reasonably likely to result in a Material Adverse Effect and the action that Borrower proposes to take with respect thereto;

(x) promptly upon the filing thereof, copies of all registration statements and annual, quarterly, monthly, or other regular reports that Borrower files with any securities commission or other Governmental Authority;

(xi) as soon as practicable, but in any event within thirty (30) days after receipt by Borrower, a copy of any written notice, complaint, Lien, inquiry or claim (i) to the effect that Borrower is or may be liable to any Person as a result of the release by Borrower, or any other Person of any Hazardous Substance into the environment, or (ii) alleging any violation of any Environmental Law by Borrower, that, in either case, could reasonably be expected to have a Material Adverse Effect;

(xii) written notice at least thirty (30) days prior to any change of its name or its principal place of business; and

(xiii) such other information as Bank may from time to time reasonably request, including, but not limited to, any reports related to any operational audit of Borrower or any of its Subsidiaries.

(b) **Good Standing.** Except as permitted by Section 5.1(c), maintain, and cause each Subsidiary to maintain, its legal existence and right to do business in its state of organization and in such other states wherein non-qualification could have a Material Adverse Effect.

(c) **Taxes, Etc.** Pay and discharge, and cause each Subsidiary to pay and discharge, all taxes, assessments, judgments, orders, and governmental charges or levies imposed upon it or on its income or profits or upon its property prior to the date on which penalties attach thereto, and all lawful claims that, if unpaid, may become a Lien or charge upon the Property of Borrower or such Subsidiary, provided that no such tax, assessment, charge, judgment, order, levy or claim shall be required to be paid if such payment is being contested diligently, in good faith, and by appropriate proceedings that will stay foreclosure or levy upon its Property and adequate reserves against such liability have been established.

(d) **Maintain Properties.** Maintain, and cause each Subsidiary to maintain, all Properties and assets used by, or useful to, it in the ordinary course of its business in good working order and condition and suitable for the purpose for which it is intended, and from time to time make any necessary repairs and replacements, ordinary wear and tear and damage by casualty or condemnation excepted.

(e) **Insurance.** Maintain, and cause each Subsidiary to maintain, in full force and effect title insurance to the Real Estate, public liability insurance, business interruption insurance, worker's compensation insurance and casualty insurance policies with companies, coverages, deductibles and self-insurance as are customary for similar businesses in the locales in which they conduct business or otherwise are reasonably acceptable to Bank. Each such policy providing liability coverage shall be endorsed to reflect Bank as an additional insured, and each such policy covering Properties of Borrower or a Subsidiary pledged as collateral to Bank shall have a lender's loss payable clause in favor of Bank, and a copy of each policy, accompanied by a certificate of coverage issued by the insurance carrier, shall be delivered to Bank. Each policy shall

stipulate that the insurance cannot be canceled or materially modified without prior written notice to Bank in accordance with the terms of the policy and shall insure Bank notwithstanding the act or neglect of Borrower or a Subsidiary.

(f) **Books and Records.** Keep proper books of account in which full, true and correct entries will be made of all dealings and transactions of and in relation to the business and affairs of Borrower, and, at all reasonable times during business hours, and as often as Bank reasonably may request, permit authorized representatives of Bank to (i) have access to the premises and Properties of Borrower and its Subsidiaries and to the records relating to the operations of Borrower and its Subsidiaries; (ii) make copies of or excerpts from such records; (iii) discuss the affairs, finances and accounts of Borrower with and be advised as to the same by the chief executive and financial officers of Borrower; and (iv) audit and inspect such books, records, accounts, memoranda and correspondence at all reasonable times, to make such abstracts and copies thereof as Bank may deem necessary, and to furnish copies of all such information to any proposed purchaser of or participant in the Facilities. So long as there exists no Default, Borrower shall not be responsible for Bank's costs and expenses of more than one such audit or inspection in any fiscal year of Borrower.

(g) **Reports.** File, and cause each Subsidiary to file, as appropriate, on a timely basis, annual reports, operating records and any other reports or filings required to be made with any Governmental Authority, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.

(h) **Licenses.** Maintain, and cause each Subsidiary to maintain, in full force and effect all operating permits, licenses, franchises, and rights used by it in the ordinary course of business, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.

(i) **Notice of Material Adverse Change.** Give prompt notice in writing to Bank of the occurrence of any development, financial or otherwise, including pending or threatened litigation, that management of Borrower anticipates could reasonably have a Material Adverse Effect.

(j) **Compliance with Law.** Comply, and cause each Subsidiary to comply, with all laws, ordinances, rules, regulations and other legal requirements applicable to it, including, without limitation, all Environmental Laws and ERISA, except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect.

(k) **Trade Accounts.** Pay all trade accounts as they become due in the ordinary course of business.

(l) **Use of Proceeds.** Use the proceeds of the Facilities solely for the purposes herein described. Borrowers shall not use, and shall ensure that its Subsidiaries and its or their respective directors, officers, employees and agents shall not use, the proceeds of any Advance (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, (ii) for the purpose of funding, financing or facilitating any activities, business or transaction of or with any Sanctioned Person, or in any Sanctioned

Country, or (iii) in any manner that would result in the violation of any Sanctions applicable to any party hereto.

(m) **Loan Payments.** Duly and punctually pay or cause to be paid principal and interest on the Facilities in lawful money of the United States at the time and places and in the manner specified herein according to the stated terms hereof, subject to any applicable grace periods provided for herein.

(n) **Environmental Matters.** Except to the extent that a failure to do so could not reasonably be expected to have a Material Adverse Effect, (i) use, operate and maintain all of its Properties in compliance with all applicable Environmental Laws, keep or acquire all necessary permits, approvals, certificates, licenses and other authorizations relating to environmental matters in effect and remain in compliance therewith, and handle all Hazardous Substances in compliance with all applicable Environmental Laws, and (ii) diligently pursue cure of any material underlying environmental problem that forms the basis of any claim, complaint, notice, Lien, inquiry, proceeding or action referred to in Section 5.2(a)(xi) hereof.

(o) **Banking Relationship.** Establish and maintain its primary banking accounts with Bank, including, without limitation, its primary deposit, lockbox and disbursement accounts.

(p) **Subordinated Debt.** At all times, cause the Subordinated Debt to be subordinated to the full, final and irrevocable payment of the Obligations, in form and substance acceptable to Bank.

(q) **Protection of Security Interest in Real Estate and Personal Property.** Subject only to Permitted Encumbrances, maintain the lien created by the Mortgages and the Security Agreement as a first lien upon the Real Estate and the Personal Property encumbered thereby, and take such actions and execute and deliver to the Bank such instruments and documents as the Bank may reasonably require from time to time at the Borrower's expense in connection therewith, including without limitation any supplemental security agreements, UCC financing statements, continuation statements or other instruments and documents extending or perfecting the security interest of the Bank in and to the Real Estate and the Personal Property as it may exist from time to time.

(r) **Title Insurance Endorsements.** Deliver or cause to be delivered to Bank, in form and content satisfactory to the Bank, such endorsements and binders to the ALTA Policy as the Bank may from time to time reasonably require.

(s) **Post-Closing Covenants.** The Borrower shall deliver the following items to the Bank within the timeframes specified below (or at such later time as may be agreed upon by the Bank in writing):

(a) Borrower shall procure landlord and warehousemen lien waivers, in the form prescribed by Bank, pursuant to which its various landlords and warehousemen shall have waived all liens or other rights of detainer against its assets constituting collateral for the Obligations within thirty (30) days following the date of execution of this Agreement;

(b) Borrower shall procure a securities account control agreement in form satisfactory to Bank with respect to that certain securities account held by Borrower at Bank of America within thirty (30) days following the date of execution of this Agreement; and

(c) Borrower shall have received the trailing twelve month financial statements for the period ending March 31, 2021 for BBP and HTL not later June 30, 2021.

Section 5.3. **Financial Covenants.** Until the Obligations shall have been fully and finally paid and performed, and so long as any commitment of Bank is outstanding, unless expressly waived in writing by Bank, Borrower shall:

(a) **Senior Funded Debt to Adjusted EBITDA Ratio.** Cause the Senior Funded Debt to Adjusted EBITDA Ratio to be not greater than (i) 5.25 to 1.00 as of the date hereof and as of June 30, 2021, (ii) 4.75 to 1.00 as of September 30, 2021, (iii) 4.50 to 1.00 as of December 31, 2021, (iv) 4.25 to 1.00 as of March 31, 2022, (v) 4.00 to 1.00 as of June 30, 2022, and (vi) 3.50 to 1.00 as of September 30, 2022 and as of each fiscal quarter end thereafter.

(b) **Fixed Charge Coverage Ratio.** Maintain its Fixed Charge Coverage Ratio at not less than (i) 1.20 to 1.00 commencing as of September 30, 2021, and as of each fiscal quarter end thereafter up to and including June 30, 2022, and (ii) 1.25 to 1.00 as of September 30, 2022 and as of each fiscal quarter end thereafter. The Fixed Charge Coverage Ratio requirement for Borrower for the fiscal quarters ending March 31, 2021 and June 30, 2021 is hereby suspended.

Section 5.4. **SBA PPP Loan.**

(a) The Borrower shall, or shall cause each applicable Subsidiary to, comply with the SBA's terms and conditions applicable to any SBA PPP Loan.

(b) The Borrower shall, or shall cause each applicable Subsidiary to, use all of the proceeds of each SBA PPP Loan exclusively for CARES Allowable Uses in the manner required under the CARES Act to obtain forgiveness of the largest possible amount of each SBA PPP Loan.

(c) The Borrower shall, or shall cause each applicable Subsidiary to, maintain the proceeds of any SBA PPP Loan in an account that does not sweep funds and apply them to the Obligations.

(d) The Borrower shall, or shall cause each applicable Subsidiary to, keep necessary and appropriate records relating to the use of any SBA PPP Loan and provide copies of such records to the Bank upon the Bank's reasonable request.

## Article 6. CONDITIONS PRECEDENT

Section 6.1. **Conditions to Initial Advance.** The obligation of Bank to make the initial Advance under the Facilities is subject to satisfaction of each of the following conditions precedent:

(a) **Regulatory Forms.** Bank shall have received, in form and substance acceptable to Bank, any required Certification of Beneficial Ownership and such other documentation and other information requested in connection with applicable “know your customer” and anti-money laundering rules and regulations, including the USA Patriot Act.

(b) **Authorization.** Bank shall have received and approved certified copies of Borrower’s and Subsidiaries’ articles of incorporation, articles of organization or certificate of formation, as applicable, and bylaws and operating agreement, as applicable, all as amended, accompanied by a recent certificate of existence issued by the appropriate official of its respective place of organization, certificates of good standing from those states in which Borrower and Subsidiaries are qualified to do business and a certified copy of resolutions adopted by Borrower’s and Subsidiaries’ board of directors or managers, as applicable, authorizing the Facilities and the transactions contemplated hereby, and specifying the persons authorized to execute and deliver the Loan Documents.

(c) **Insurance.** Borrower shall have furnished to Bank evidence of the insurance required by this Agreement.

(d) **Loan Documents.** Each of the Loan Documents, in the form prescribed by Bank, shall have been executed and delivered by the appropriate parties thereto, and the other loan documents and guaranties required by this Agreement, in the form prescribed by Bank, shall have been executed and delivered by the appropriate parties thereto.

(e) **Incumbency.** Bank shall have received incumbency certificates, executed by the secretary or an assistant secretary of Borrower and Subsidiaries, that shall identify the name and title and bear the signature of its officers authorized to sign the Loan Documents, and Bank shall be entitled to rely upon such certificate until informed of any change in writing by Borrower and/or Subsidiaries.

(f) **Legal Matters.** All legal matters incident to the Loan Documents and the making of Advances shall be reasonably satisfactory to Bank and its counsel.

(g) **UCC Searches.** Bank shall have received satisfactory return after search in accordance with the Uniform Commercial Code in such governmental offices as Bank shall have deemed appropriate.

(h) **Opinions of Counsel.** Bank shall have received the favorable written opinion(s) of counsel to Borrower and Subsidiaries, dated of even date herewith, as to those matters that Bank may reasonably require.

(i) **Fees.** Borrower shall have reimbursed Bank for all reasonable legal fees and other reasonable out-of-pocket expenses of Bank in connection with the Facilities, and Borrower shall have paid the facility fee due and payable pursuant to Section 2.6(a) hereof.

(j) **Regulation U.** Bank shall have received such certificates and other documents as it shall have deemed reasonably appropriate as to compliance with Regulations T, U and X of the Board of Governors of the Federal Reserve System.

(k) **Equity Infusion.** Bank shall have received satisfactory evidence that Borrower has completed a capital raise and contributed not less than \$35,000,000 of cash equity to be contributed toward the consummation of the BBP Acquisition, and/or the HTL Acquisition.

(l) **Opening Balance Sheet/Financial Statements.** Bank shall have received an opening pro forma balance sheet of Borrower and its Subsidiaries as of April 30, 2021 on a consolidated and consolidating basis after giving effect to the Acquisitions and the initial funding of the Facilities. Bank shall also have received each of BBP's and HTL's financial statements for the most recent 12-month period ending December 31, 2020.

(m) **Projections.** Bank shall have received (i) monthly financial projections of Borrower for fiscal year 2021, (ii) quarterly financial projections of Borrower for fiscal year 2022, and (iii) annual financial projections of Borrower for fiscal years 2023 through 2024 each in a form acceptable to Bank. The monthly financial projections for fiscal year 2021 and the quarterly financial projections for fiscal year 2022 shall include a balance sheet, an income statement, and a cash flow statement prepared on a consolidated and consolidating basis.

(n) **No Default.** As of the date hereof, and after giving effect to the initial funding of the Facilities, there shall not exist a Default or Unmatured Default, and Bank shall have received evidence reasonably satisfactory to Bank that the transactions contemplated by this Agreement do not create a default under any material agreement to which Borrower is a party.

(o) **Consents.** All material consents necessary for the Acquisitions and the secured financing transaction and other transactions contemplated by this Agreement pursuant to the Loan Documents shall have been obtained.

(p) **Acquisition Documents.** Bank shall have received copies of true, correct and complete copies of the Acquisition Agreements and all other material Acquisition Documents, and evidence satisfactory to Bank that, at or before the initial Advance hereunder, all transactions described in the Acquisition Documents have been consummated in all material respects in accordance with the terms and provisions thereof.

(q) **Collateral Assignment of Acquisition Documents.** Bank shall have received an executed Collateral Assignment of Acquisition Documents with respect to each of the BBP Acquisition and the HTL Acquisition, in the form prescribed by Bank, pursuant to which Borrower shall have collaterally assigned to Bank the representations, warranties, covenants and indemnities granted to Borrower under the Acquisition Documents.

(r) **Payoff Documentation.** Bank shall have received payoff letters or lien release documentation in form and substance satisfactory to Bank from any secured party that had been granted a security interest in the assets of Borrower, BBP or HTL.

(s) **Solvency Certificate.** Bank shall have received an acceptable Solvency Certificate, duly executed by Borrower.

(t) **Seller Subordination.** Bank shall have received a Subordination Agreement, in the form prescribed by Bank, duly executed by the holders of the Seller Debt.

(u) **Quality of Earnings Report/Market Report.** Bank shall have received an acceptable quality of earnings report in connection with the BBP Acquisition and the HTL Acquisition.

(v) **Closing Financial Covenants.** Bank shall have received a Compliance Certificate evidencing that the Borrower's Senior Funded Debt to Adjusted EBITDA Ratio as of closing is not greater than 5.25 to 1.00 calculated using outstanding Indebtedness after giving effect to the initial Advances of the Facilities.

(w) **Endorsement.** The Bank shall have received a pro forma date-down and modification endorsement with respect to the ALTA Policy applicable to each parcel of Real Estate in form satisfactory to the Bank.

Section 6.2. **Conditions to Subsequent Advances.** Prior to each subsequent Advance under the Revolving Credit Facility:

(a) **No Default.** No Default or Unmatured Default shall have occurred and be continuing.

(b) **Representations and Warranties.** Each representation and warranty contained in Article 4 shall be true and correct as of the date of such Advance, except to the extent any such representation or warranty relates solely to an earlier date and except for changes reflecting transactions permitted by this Agreement.

(c) **Legal Matters.** All legal matters incident to the making of such Advance shall be reasonably satisfactory to Bank and its counsel.

(d) **Expenses.** Borrower shall have reimbursed Bank for all reasonable legal fees and other reasonable expenses incurred by Bank in connection with the Facilities in accordance with Section 8.8 hereof.

Section 6.3. **General.** Each request for an Advance shall constitute a representation and warranty by Borrower that the applicable conditions contained in this Article 6 have been satisfied.

## Article 7. DEFAULT

Section 7.1. **Default.** The occurrence of any of the following events shall be deemed a Default hereunder:

(a) any representation or warranty made by or on behalf of Borrower or any Affiliate to Bank under or in connection with any Loan Document or any subordination agreement shall be false in any material respect as of the date on which made; provided, however, upon notice from Bank to Borrower of such materially incorrect representation or warranty, Borrower shall have a thirty (30) day grace period to cause such representation to be true and accurate.

(b) Borrower fails to make any payment of principal of or interest on the Facilities or any fee or other payment Obligation in connection with the Facilities within 5 (five) days of when due;

(c) the breach by Borrower of any of the covenants contained in Section 3.2, Section 5.1, Section 5.2(a) (other than clauses (x) and (xiii)), Section 5.2(b) (as to existence), Section 5.2(e) (as to inspections), Section 5.2(h), Section 5.2(k), Section 5.2(l), Section 5.2(n), Section 5.2(o) or Section 5.3, subject to the provisions of Section 7.2;

(d) the breach by Borrower of any other terms or provisions of this Agreement or any of the other Loan Documents (other than a breach that constitutes a Default under Section 7.1(a), (b) or (c) above) not cured within thirty (30) days;

(e) the failure of Borrower or any Subsidiary to pay any other Indebtedness exceeding \$100,000 when due or within any applicable grace or cure period (including, without limitation, any Indebtedness to Bank regardless of the amount), or the breach by Borrower or any Subsidiary of any term, provision or condition contained in any agreement under which any such Indebtedness was created or is governed, which breach constitutes a default thereunder, or any other event shall occur or condition exist, the effect of which is to cause, or to permit the holder or holders of such Indebtedness to cause, any such Indebtedness to become due prior to its stated maturity, or any such Indebtedness 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;

(f) Borrower or a Guarantor shall (i) commence a voluntary case or other proceeding or file any petition seeking liquidation, reorganization or other relief under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or seeking the appointment of a custodian, trustee, receiver, liquidator or other similar official of it or any substantial part of its property, (ii) consent to the institution of, or fail to contest in a timely and appropriate manner, any proceeding or petition described in clause (i) of this clause (f), (iii) apply for or consent to the appointment of a custodian, trustee, receiver, liquidator or other similar official for such Person or for a substantial part of its assets, (iv) file an answer admitting the material allegations of a petition filed against it in any such proceeding, (v) make a general assignment for the benefit of creditors, or (vi) take any action for the purpose of effecting any of the foregoing;

(g) an involuntary proceeding shall be commenced or an involuntary petition shall be filed seeking (i) liquidation, reorganization or other relief in respect of Borrower or a Guarantor or its debts, or any substantial part of its assets, under any federal, state or foreign bankruptcy, insolvency or other similar law now or hereafter in effect or (ii) the appointment of a custodian, trustee, receiver, liquidator or other similar official for Borrower or a Guarantor or for a substantial part of its assets, and in any such case, such proceeding or petition shall remain undismissed for a period of sixty (60) days or an order or decree approving or ordering any of the foregoing shall be entered;

(h) Borrower and Guarantors, taken as a whole, shall become unable to pay, shall admit in writing their inability to pay, or shall fail to pay, their debts as they become due;

(i) any Governmental Authority shall condemn, seize or otherwise appropriate, or take custody or control of all or any substantial portion of the Property of Borrower and Guarantors, taken as a whole;

(j) any final, non-appealable judgment or order for the payment of money in excess of \$100,000 in the aggregate (net of independent third-party insurance as to which the insurance carrier does not dispute the coverage of such payment) shall be rendered against Borrower or any Subsidiary, and either (i) enforcement proceedings shall have been commenced by any creditor upon such judgment or order or (ii) there shall be a period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect; or

(k) any non-monetary judgment or order shall be rendered against Borrower or any Subsidiary that could reasonably be expected to have a Material Adverse Effect, and there shall be a period of thirty (30) consecutive days during which a stay of enforcement of such judgment or order, by reason of a pending appeal or otherwise, shall not be in effect;

(l) a Change in Control;

(m) a “reportable event” or a “prohibited transaction” under, or any complete or partial withdrawal from, or any other event that would constitute grounds for termination of or the appointment of a trustee to administer, any Plan maintained by Borrower or any ERISA Affiliate for the benefit of its “employees” (as such terms are defined in ERISA), that will have a Material Adverse Effect;

(n) any Loan 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 Loan Document), or 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, or the security interest created under, any Loan Document;

(o) any Guaranty shall fail to remain in full force and effect or any action shall be taken by a Borrower or a guarantor to discontinue or to assert the invalidity or unenforceability of a Guaranty, or a guarantor shall fail to comply in any material respect with any of the provisions of its Guaranty, or a guarantor shall deny that it has any further liability under its Guaranty, or shall give notice to such effect; or

(p) nonpayment by Borrower of any Bank Product Obligation owed to Bank when due or within any applicable grace or cure period;

(q) there shall occur any loss, theft, substantial damage or destruction of any item or items of collateral for the Obligations that is not insured as and to the extent required by this Agreement, the other Loan Documents or any guarantee (a “**Collateral Loss**”), to the extent the amount of such Collateral Loss not fully covered by insurance (subject to any deductible in connection therewith), together with the amount of all other Collateral Losses not fully covered by insurance (subject to any deductible in connection therewith) occurring in the same fiscal year, exceeds \$200,000;

(r) any report, certificate, financial statement or other instrument furnished by Borrower or a Guarantor to Bank in connection with the Loan Documents in writing is false in any material respect when so furnished; or

(s) Any event of default or breach occurs with respect to any all obligation or liability of the Borrower owed to the Bank, including, without limitation, each and every of the following: (i) rents, leases, loans, advances, indebtedness, however created, of every kind and description, whether now existing or hereafter arising and whether direct or indirect, primary or as guarantor or surety, absolute or contingent, due or to become due, liquidated or unliquidated, matured or unmatured, participated in whole or in part, created by trust agreement, overdraft, agreement, or otherwise, whether or not secured by additional collateral, whether originated with the Bank or owed to others and acquired by the Bank by purchase, assignment or otherwise (but only so long as any of the foregoing are retained by the Bank), (ii) tax reimbursements, (iii) expenses incurred for the protection, preservation and disposition of collateral securing any loan and any equipment subject to any lease, (iv) indemnification claims and reimbursement obligations, (v) letters of credit now or hereafter issued by the Bank for the benefit of or at the request of the Borrower, and (vi) all agreements, instruments and documents evidencing, guarantying, securing or otherwise executed in connection with any of the foregoing, together with any amendments, modifications, and restatements thereof.

#### Section 7.2. [Reserved]

Section 7.3. **Acceleration.** If any Default described in Section 7.1(f) or Section 7.1(g) occurs, the Facilities and the commitment of Bank to make Advances under the Facilities shall automatically terminate and the Obligations shall immediately become due and payable without any election or action on the part of Bank. If any other Default occurs, Bank may terminate its commitments hereunder and declare the Obligations to be due and payable, whereupon the Obligations shall become immediately due and payable, without presentment, demand, protest or notice of any kind, all of which Borrower hereby expressly waives.

Section 7.4. **Remedy.** Upon the occurrence of a Default, Bank may immediately proceed to exercise all remedies available to it under the Loan Documents or otherwise under applicable law. No right or remedy conferred upon or reserved to Bank under the Loan Documents is intended to be exclusive of any other available remedy or right, but each and every remedy shall be cumulative and concurrent and shall be in addition to every other remedy now or hereafter existing at law or in equity. No single or partial exercise of any power or right shall preclude any further or other exercise of any power or right.

Section 7.5. **Preservation of Rights.** No delay or omission of Bank to exercise any power or right under the Loan Documents shall impair such power or right or be construed to be a waiver of any Default or an acquiescence therein, and any single or partial exercise of any power or right shall not preclude other or further exercise thereof or the exercise of any other power or right. No Advance hereunder shall constitute a waiver of any of the conditions of Bank's obligation to make further Advances, nor, in the event Borrower is unable to satisfy any such condition, shall a waiver of such condition in any one instance have the effect of precluding Bank from thereafter declaring such inability to be a Default hereunder. No course of dealing shall be binding upon Bank.

## Article 8. GENERAL PROVISIONS

Section 8.1. **Benefit of Agreement.** Bank will accept the Notes as evidence of loans made in the ordinary course of its commercial banking business. The terms and provisions of this Agreement, the Notes and the other Loan Documents shall be binding upon and inure to the benefit of Borrower and Bank and their respective successors and assigns of their entire interests, except that Borrower shall not have the right to assign this Agreement.

Section 8.2. **Survival of Representations.** All representations, warranties and agreements of Borrower contained in the Loan Documents shall survive delivery of the Notes and the making of the Facilities.

Section 8.3. **Governmental Regulation.** Anything contained in this Agreement to the contrary notwithstanding, Bank shall not be obligated to extend credit to Borrower in violation of any limitation or prohibition provided by any applicable statute or regulation.

Section 8.4. **Conflict.** This Agreement and the other Loan Documents shall be interpreted, wherever possible, in a manner consistent with one another, but in the event of any irreconcilable inconsistency, this Agreement shall control.

Section 8.5. **Choice of Law.** The Loan Documents (other than those containing a contrary express choice of law provision) and the rights and obligations of the parties thereunder and hereunder shall be governed by, and construed and interpreted in accordance with the laws of the State of Indiana, notwithstanding the fact that Indiana conflict of law rules might otherwise require the substantive rules of law of another jurisdiction to apply. Borrower hereby consents to the jurisdiction of any state or federal court located within Marion County, Indiana. All service of process may be made by messenger, certified mail, return receipt requested or by registered mail directed to Borrower at the address indicated aside its signature to this Agreement, and Borrower otherwise waives personal service of any and all process made upon Borrower. Borrower waives any objection Borrower may have to any proceeding commenced in a federal or state court located within Marion County, Indiana, based upon improper venue or *forum non conveniens*. Nothing contained in this Section shall affect the right of Bank to serve legal process in any other manner permitted by law or to bring any action or proceeding against Borrower or its property in the courts of any other jurisdiction.

Section 8.6. **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.

Section 8.7. **Entire Agreement.** The Loan Documents embody the entire agreement and understanding between Borrower and Bank and supersede all prior agreements and understandings between Borrower and Bank relating to the subject matter thereof.

Section 8.8. **Expenses.** Borrower shall reimburse Bank for any and all reasonable costs, charges and out-of-pocket expenses (including reasonable attorneys' fees and time charges of attorneys for Bank), paid or incurred by Bank in connection with the preparation, review, execution, delivery, amendment, modification, administration, collection and enforcement of the Facilities and/or the Loan Documents and in connection with the conduct by Bank's internal auditors of periodic field and servicing audits of Borrower. Bank may pay or deduct from the loan proceeds any of such expenses, and any proceeds so applied shall be deemed to be Advances under this Agreement evidenced by the Equipment Loan and/or the Revolving Credit

Facility and secured by the Loan Documents, and shall bear interest at the rate of interest provided in this Agreement.

Section 8.9. **Indemnification.** Borrower agrees to indemnify Bank, and its successors and assigns (including any purchaser of a participation in the Facilities), and their directors, officers, agents, affiliates, counsel and employees, against all losses, claims, costs, damages, liabilities and expenses, including, without limitation, all expenses of litigation or preparation therefor (a “**Loss**”), that they may pay or incur in connection with, related to, or arising out of the direct or indirect application of the proceeds of the Facilities hereunder, this Agreement or the other Loan Documents or any transaction contemplated hereby or thereby or the operations of a Borrower’s business; provided that Borrower shall not be obligated to indemnify any indemnitee for any of the foregoing arising out of such indemnitee’s gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and nonappealable judgment. The indemnity set forth herein shall be in addition to any other Obligations of Borrower to Bank hereunder or at common law or otherwise, and shall survive any termination of this Agreement, the expiration of the obligation of Bank to make the Facilities and the payment of all Obligations.

Section 8.10. **Confidentiality.** Bank agrees to treat all information received by it in connection with the Loan Documents (except such information that is generally available or has been made available to the public) as confidential, provided, however, that nothing in this Section 8.10 shall prohibit Bank from, or subject Bank to liability for, disclosing any such information to any Governmental Authority having regulatory or supervisory jurisdiction over Bank, and provided further that Bank may provide such information on a confidential basis to proposed purchasers of or participants in the Facilities from time to time.

Section 8.11. **Giving Notice.**

(a) Except in the case of notices and other communications expressly permitted to be given by telephone (and subject to 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 telecopy, addressed to Borrower or Bank at the addresses indicated aside their signatures to this Agreement.

(b) Notices and other communications to Bank hereunder may be delivered or furnished by electronic communications pursuant to procedures approved by Bank; provided that the foregoing shall not apply to notices pursuant to Article 2 unless otherwise agreed by Bank. Bank or Borrower may, in its discretion, agree to accept notices and other communications to it hereunder by electronic communications pursuant to procedures approved by it; provided that approval of such procedures may be limited to particular notices or communications.

(c) Any party hereto may change its address or telecopy number for notices and other communications hereunder by notice to the other parties hereto. All notices and other communications given to any party hereto in accordance with the provisions of this Agreement shall be deemed to have been given on the date of receipt.

Section 8.12. **Maximum Interest and Charges.** It is the intent of Borrower and Bank that the rate of interest and the other charges of Borrower under this Agreement shall be lawful;

therefore, if for any reason, the interest or other charges payable under this Agreement are found by a court of competent jurisdiction to exceed the limit that Bank may lawfully charge Borrower, then the obligation to pay interest and other charges shall automatically be reduced to such limits. If Borrower has paid an amount in excess of such limit, then such amount shall be applied to reduce the principal portion of the Obligations or returned to Borrower, as appropriate.

Section 8.13. **Counterparts.** This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one agreement, and any of the parties hereto may execute this Agreement by signing any such counterpart. This Agreement shall be effective when it has been executed by Borrower and Bank. Delivery of an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall have the same force and delivery of an original executed counterpart of this Agreement. Any party delivering an executed counterpart of this Agreement by telefacsimile or other electronic method of transmission shall also deliver an original executed counterpart of this Agreement, but the failure to do so shall not affect the validity, enforceability, and binding effect of this Agreement.

Section 8.14. **Incorporation by Reference.** All Exhibits hereto are incorporated herein by this reference.

Section 8.15. **Time of Essence.** Except as expressly set forth therein, time is of the essence under the Loan Documents.

Section 8.16. **No Joint Venture.** Notwithstanding anything to the contrary herein contained or implied, Bank, by this Agreement, or by any action pursuant hereto, shall not be deemed to be a partner of, or a joint venturer with, Borrower, and Borrower hereby indemnifies and agrees to defend and hold Bank harmless, including the payment of reasonable attorneys' fees, from any Loss (other than a Loss arising out of Bank's gross negligence or willful misconduct as determined by a court of competent jurisdiction in a final and nonappealable judgment) resulting from any judicial construction of the parties' relationship as such.

Section 8.17. **Relationship of Parties; Release of Consequential Damages.** The relationship between Borrower and Bank shall be solely that of borrower and lender. Bank shall not have any fiduciary responsibilities to Borrower. Bank undertakes no responsibility to Borrower to review or inform Borrower of any matter in connection with any phase of Borrower's business or operations. Neither Bank nor Borrower shall have any liability with respect to, and each of Bank and Borrower hereby waives, releases and agrees not to sue for, any special or consequential damages suffered by it in connection with, arising out of, or in any way related to the Loan Documents or the transactions contemplated thereby.

Section 8.18. **Severability.** In the event any provision of this Agreement or any of the Loan Documents shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not affect the validity, enforceability or legality of the remaining provisions hereof or thereof, all of which shall continue unaffected and unimpaired thereby.

Section 8.19. **Gender.** As used herein, the masculine gender shall be deemed to include the feminine, and the neuter and the singular number shall also include the plural.

Section 8.20. **Waiver and Amendment.** Borrower and Bank may enter into agreements supplemental hereto for the purpose of adding or modifying provisions of this Agreement or changing the respective rights, powers, privileges, duties, liabilities, covenants or obligations of Bank or Borrower or waiving any Default hereunder, provided, however, that no such

agreements supplemental shall be binding unless in writing and duly signed by the parties hereto, and then only to the extent specifically set forth therein.

Section 8.21. **Bank Not in Control.** None of the covenants or other provisions contained in the Loan Documents shall, or shall be deemed to, give Bank the right or power to exercise control over the affairs and/or management of Borrower, the power of Bank being limited to the right to exercise the remedies provided in the Loan Documents, provided, however, that if Bank becomes the owner of any stock or other equity interest in any Person, whether through foreclosure or otherwise, Bank shall be entitled (subject to requirements of law) to exercise such legal rights as it may have by virtue of being the owner of such stock or other equity interest in such Person.

Section 8.22. **Further Assurances.** Borrower shall execute, acknowledge and deliver, or cause to be executed, acknowledged or delivered, any and all such further assurances and other agreements or instruments, and take or cause to be taken all such other action, as shall be reasonably necessary from time to time to give full effect to the Loan Documents and the transactions contemplated thereby.

Section 8.23. **Joint and Several Liability/Contribution.** Borrower and Guarantors Obligations hereunder shall be joint and several. Borrower and Guarantors further acknowledge and agree that the Obligations are supported by adequate consideration, regardless of the amount of Advances or other benefits actually received by Borrower under the Loan Documents. In the event Borrower makes a payment of principal under the Loan Documents that exceeds the amount of funds actually received, directly or indirectly, by Borrower thereunder, Borrower shall be entitled to contribution from Guarantors, pro-rata, on the basis of funds actually received and shall be entitled to recover such amounts by available legal means, but only after full payment of the Obligations has been made to Bank. Such right of contribution shall be and remain at all times, junior, subordinate, inferior and subject to the rights and interests of Bank under the Loan Documents and shall not affect or impair in any way the joint, several, personal, unconditional Obligations of Borrower to fully pay and perform each of the Obligations.

Section 8.24. **Waiver of Jury Trial.** Bank and Borrower, after consulting or having had the opportunity to consult with counsel, knowingly, voluntarily, intentionally, irrevocably and unconditionally waive any right either of them may have to a trial by jury in any litigation based upon or arising out of this agreement or any other Loan Document or any of the transactions contemplated by this Agreement or any course of conduct, dealing, statements (whether oral or written), or actions of either of them. Neither Bank nor Borrower shall seek to consolidate, by counterclaim or otherwise, any action in which a jury trial has been waived with any other action in which a jury trial cannot be or has not been waived. These provisions shall not be deemed to have been modified in any respect or relinquished by either Bank or Borrower except by a written instrument executed by both of them.

## Article 9. USA PATRIOT ACT NOTIFICATION

Bank hereby notifies Borrower that, pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56) (the “**Patriot Act**”), Bank is required to obtain, verify and record information that identifies Borrower and the other credit parties. Borrower agrees to provide to Bank promptly upon Bank’s request, such information as Bank shall require for purposes of complying with the requirements of the Patriot Act, the federal regulations issued pursuant to the

Patriot Act and any customer identification program established by Bank in accordance therewith.

[This Space Intentionally Left Blank]

IN WITNESS WHEREOF, Borrower and Bank have caused this Agreement to be executed by their respective officers duly authorized as of the date first above written.

BORROWER

Address:  
2701 Kent Avenue  
West Lafayette, IN 47906  
Attention: President

INOTIV, INC. (formerly known as Bioanalytical  
Systems, Inc.), an Indiana corporation

By: /s/ Beth A. Taylor

Beth A. Taylor, Chief Financial Officer &  
Vice President-Finance

BANK

Address:  
11201 USA Parkway  
Fishers, Indiana 46037  
Attention: Trina McWilliams

FIRST INTERNET BANK OF INDIANA

By: /s/ Katrina McWilliams  
Katrina McWilliams, Vice President

## FIRST AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT

THIS FIRST AMENDMENT TO AMENDED AND RESTATED CREDIT AGREEMENT (this “**First Amendment**”) is effective as of the 26<sup>th</sup> day of May, 2021, by and between INOTIV, INC. (formerly known as Bioanalytical Systems, Inc.), an Indiana corporation (the “**Borrower**”), and FIRST INTERNET BANK OF INDIANA, an Indiana state bank (“**Bank**”). The parties agree as follows:

WHEREAS, as of April 30, 2021, the parties hereto entered into a certain Amended and Restated Credit Agreement (the “**Agreement**”);

WHEREAS, the parties desire to amend the Agreement to, among other things, modify certain definitions and other terms and provisions, all subject to the terms contained herein; and

NOW, THEREFORE, in consideration of the premises, and the mutual promises herein contained, the parties agree that the Agreement shall be, and it hereby is, amended as provided herein and the parties further agree as follows:

### PART I. AMENDATORY PROVISIONS

#### ARTICLE 1. DEFINITIONS.

Section 1.1 Amended **Defined Terms**. Section 1.1 of the Agreement is hereby amended by substituting the following definitions in lieu of the like existing definitions:

“**Mortgage**” or “**Mortgages**” means individually or collectively as the context requires, the Fort Collins Deed of Trust, the Maryland Heights Deed of Trust, the Mount Vernon Mortgage, and the West Lafayette Mortgage.

“**Notes**” means, collectively, the Revolving Credit Note, Term Note 1, Term Note 2, Term Note 3, Term Note 4, Term Note 5, Term Note 6, Term Note 7, Term Note 8, Term Note 9, Term Note 10, Term Note 11, Term Note 12, the Equipment Note, and any subsequent notes issued by Borrower in favor of Bank under this Agreement.

“**Real Estate**” means individually or collectively as the context requires, the Mount Vernon Property, the Fort Collins Property, the Maryland Heights Property, and the West Lafayette Property.

“**Term Loans**” means Term Loan 1, Term Loan 2, Term Loan 3, Term Loan 4, Term Loan 5, Term Loan 6, Term Loan 7, Term Loan 8, Term Loan 9, Term Loan 10, Term Loan 11, and Term Loan 12.

“**Term Note 10**” means the Term Loan Note 10, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 10, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Note 11**” means the Amended and Restated Term Loan Note 11, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 11, including any amendment, modification, renewal, extension or replacement thereof.

“**Term Notes**” means Term Note 1, Term Note 2, Term Note 3, Term Note 4, Term Note 5, Term Note 6, Term Note 7, Term Note 8, Term Note 9, Term Note 10, Term Note 11, and Term Note 12.

“**Title Company**” means (i) with respect to the Maryland Heights Property, the West Lafayette Property, and the Mount Vernon Property, First American Title Insurance Company, and (ii) with respect to the Fort Collins Property, Land Title Guarantee Company, as applicable.

“**Unfunded Capital Expenditures**” shall equal the sum of Capital Expenditures excluding funds borrowed under the Equipment Loan or for certain Capital Expenditures not to exceed (a) \$2,600,000 for the purchase and capital improvements of the Maryland Heights, Missouri location, plus (b) \$10,000,000 for other capital improvements as approved by Bank. For purposes of calculating Unfunded Capital Expenditures, Capital Expenditures will be derived from the Statement of Cash Flows of the Borrower and its Subsidiaries for such applicable Test Period.

Section 1.2 **Additional Defined Terms.** Section 1.1 of the Agreement is hereby further amended by adding the following definitions:

“**Contractor**” means the general contractor engaged for the Project.

“**Cost of Completion**” shall mean, collectively, Direct Costs and Indirect Costs.

“**Direct Costs**” shall mean all expenditures incurred or to be incurred by the Borrower for work, labor or materials furnished in connection with the construction of the Project.

“**First Amendment**” shall mean that certain First Amendment to Amended and Restated Credit Agreement dated as of May 26, 2021 by and between the Borrower and the Bank.

“**First Amendment Loan Documents**” shall mean the First Amendment, the Term Note 12, the Environmental Indemnity Agreement, the Reaffirmation of Guaranty, the Collateral Assignment of Agreements and Plans, the Maryland Heights Deed of Trust, and all other Loan Documents evidencing or securing the Facilities delivered to the Bank in connection with the First Amendment

“**Indirect Costs**” shall mean all expenditures incurred or to be incurred by the Borrower in connection with or incidental to the construction of the Project other than Direct Costs, including without limitation the costs of title examination and insurance, costs of surveys, mortgage recording fees, real estate taxes and assessments, water and

sewer fees, insurance premiums, fees of the Project Inspector, interest on Term Loan 12, sums paid by the Borrower for the obtaining of Term Loan 12 and any subsequent financing, the cost of working capital, and the cost of net operating losses until stabilization.

“**Maryland Heights Deed of Trust**” means that certain Deed of Trust, Assignment of Leases and Rents, Security Agreement and Fixture Filing, duly executed by Seventh Wave Indiana in favor of Bank encumbering the Maryland Heights Property dated as of even date herewith, as the same may be from time to time further supplemented or amended.

“**Maryland Heights Property**” means the property located at 19 Worthington Access Drive, Maryland Heights, Missouri, more particularly described in Exhibit A to the Maryland Heights Deed of Trust.

“**Maryland Heights Property Purchase Agreement**” means that certain Agreement for Purchase and Sale of Real Estate by and between Seventh Wave Indiana and SWL Properties LLC dated as of May 24, 2021.

“**Project**” means the construction of Improvements necessary for the renovation of the current facility upon the Maryland Heights Property, the Personal Property associated therewith, and the operating thereof.

“**Project Inspector**” shall mean a professional construction consultant hired by Bank at Borrower’s expense (provided that expenses shall be limited to out-of-pocket, documented third-party expenses), such consultant to be reasonably acceptable to the Borrower (i) to review Borrower’s estimated Cost of Completion, (ii) to certify to Bank that the Improvements can be completed at the Cost of Completion and (iii) to make inspections and examinations of construction of the Project.

“**Term Loan 12**” means the secured term loan in the principal amount of Four Million Eight Hundred Thirty-Two Thousand Dollars (\$4,832,000), governed by this Agreement, including any renewal or extension thereof.

“**Term Loan 12 Maturity Date**” means December 26, 2026.

“**Term Note 12**” means the Term Loan Note 12, in the form prescribed by Bank, duly executed by Borrower to Bank to evidence Term Loan 12, including any amendment, modification, renewal, extension or replacement thereof.

## ARTICLE 2. CREDIT.

Section 2.1 **Commitments.** Section 2.1 of the Agreement is hereby amended by adding the following Section 2.1(n):

(n) **Term Loan 12.** Subject to the terms and conditions of this Agreement, Bank shall make Term Loan 12 to Borrower in the principal amount of Four Million Eight

Hundred Thirty-Two Thousand Dollars (\$4,832,000). Term Loan 12 shall be evidenced by the Term Note 12.

Section 2.2 **Interest.** Section 2.2 of the Agreement is hereby amended by adding the following Section 2.2(o):

(o) **Term Loan 12.** Prior to maturity, the outstanding principal balance of Term Loan 12 shall bear interest at a fixed per annum rate equal to three and eighty-five hundredths percent (3.85%).

Section 2.3 **Payments of Principal and Interest.** Section 2.3 of the Agreement is hereby amended by adding the following Section 2.3(r):

(r) **Term Loan 12.** Commencing on July 1, 2021, and continuing on the first (1<sup>st</sup>) day of each calendar month thereafter up to and including the first (1<sup>st</sup>) day of the seventh (7<sup>th</sup>) month after the date of the Term Note 12, Borrower shall pay to Bank monthly principal payments in the amount of Ten Thousand and 00/100 Dollars (\$10,000.00), together with accrued interest. Commencing on the first (1<sup>st</sup>) day of the eighth (8<sup>th</sup>) month after the date of the Term Note 12, Borrower shall pay to Bank monthly installments of principal and interest in the amount of Twenty-Eight Thousand Six Hundred Twenty-Three and 87/100 Dollars (\$28,623.87). A final installment representing the entire unpaid principal balance of Term Loan 12, and all accrued and unpaid interest thereon and all fees and charges in connection therewith, shall be due and payable on Term Loan 12 Maturity Date.

Section 2.5 **Use of Proceeds.** Section 2.5 of the Agreement is hereby amended by adding the following Section 2.5(n):

(n) **Term Loan 12.** The proceeds of Term Loan 12 shall be used to finance the acquisition of the Maryland Heights Property and to fund the Project.

#### ARTICLE 4. REPRESENTATIONS AND WARRANTIES.

Section 4.31 **Representations and Warranties with Respect to the Project.** The Agreement is hereby amended by adding Section 4.31 to the Agreement as follows:

Section 4.31. **Representations and Warranties with Respect to the Project.** The Borrower makes the following representations and warranties with respect to the Project as follows:

(a) Seventh Wave Indiana will be the owner in fee simple of the Maryland Heights Property as of the time of execution and delivery of the First Amendment Loan Documents. Following the effectiveness of the Maryland Heights Property Purchase Agreement, the Maryland Heights Property shall not subject to any lien, charge, mortgage, restriction or encumbrance except Permitted Encumbrances.

(b) The foundation lines of the Project are within the boundary lines of the Maryland Heights Property, and the Project and its proposed operation do not violate any applicable zoning or use statute, ordinance, building code, rule or regulation or any covenant or agreement which is binding upon the Maryland Heights Property, Seventh Wave Indiana or the Borrower. Neither the Borrower nor Seventh Wave Indiana has received any notice of violation of any ordinance, rule or regulation of any governmental authority with respect to the Project or the Maryland Heights Property.

(c) There are no actions, suits or proceedings pending or, to the knowledge of the Borrower, threatened against it or the Project, at law or in equity, or before any governmental department, commission, board, bureau, agency or instrumentality which involve the possibility of any judgment or order which may result in any material, adverse effect upon the Borrower, Seventh Wave Indiana or the Maryland Heights Property.

(d) To the Borrower's knowledge, the Maryland Heights Property has not been substantially and adversely affected in any way as a result of any fire, explosion, earthquake, accident, labor disturbance, requisition or taking of property by any governmental authority, flood, riot or act of God.

(e) The Maryland Heights Property, the present use and occupancy of the Maryland Heights Property, the Plans and Specifications, the construction of the Project and the use and occupancy of the Project upon its completion, will not violate or conflict with any applicable law, statute, ordinance, rule, regulation or order of any kind, including, without limitation, zoning building, environmental, land use, noise abatement, occupational health and safety or other laws, any building permit or any condition, grant, easement, covenant, condition or restriction, whether recorded or not.

(f) Subject only to payment of fees reflected in the Project Budget and the construction of certain adjacent utility facilities servicing the Project, all utility and municipal services required for the construction, occupancy and operation of the Project are available for use and tap-in at the boundaries of the Maryland Heights Property, and written permission has been obtained from the applicable utility companies or municipal cities to connect the Project into each of said service and to thereafter provide the Project with such services to the extent necessary for operation of the Project.

(g) All permits and licenses required by applicable law to construct, occupy and operate the Project have been issued and are in full force or, if the present stage of construction of the Project does not allow such issuance, then such permits and licenses will be issued when required if and when the Project is constructed pursuant to the Plans and Specifications.

(h) The water system, sewer system, and all mechanical systems of the Project do (or when constructed will) comply with all applicable environmental, pollution control and ecological laws, ordinances, rules and regulations. The applicable environmental protection agency, pollution control board and/or other governmental agencies having jurisdiction of the Project have issued their permits for the construction, tap-in and operation of those systems.

(i) All utility, parking, vehicular access (including curb cuts and highway access), construction, recreational and other permits and easements required for the construction use and operation of the Project have been granted and issued.

(j) When completed in accordance with the Plans and Specifications, the Project will not encroach upon any building line, set back line, side yard line, or any recorded or visible easement, or other easement of which Borrower is aware or has reason to believe may exist, affecting the Maryland Heights Property.

(k) The Plans and Specifications are complete in all respects, containing all detail requisite for the Project which, when built and equipped in accordance therewith, shall be ready for the intended use thereof.

(l) All driveways and roads necessary for ingress and egress to the Project and for the full utilization of the Improvements constituting the Project for their intended purposes have either been completed pursuant to easements approved by the Bank or the necessary rights-of-way thereof have been dedicated to public use and accepted by the appropriate governmental authority and if not completed, all necessary steps have been taken by the Borrower and all necessary governmental authorities to assure the complete construction and installation thereof to the satisfaction of the Bank.

(m) No condemnation of any portion of the Project, no condemnation or relocation of any roadways abutting the Project, and no denial of access to the Project from any point of access to the Project, has commenced, or to the best of the Borrower's knowledge, is contemplated by any governmental authority.

(n) In Borrower's reasonable judgment, the Project Budget, when presented to the Bank in accordance with the terms of this Agreement, shall be true and correct and the amounts set forth in the Project Budget present a full and complete representation of all costs, expenses and fees which Borrower, after diligent inquiry and analysis by Borrower and persons of appropriate expertise on behalf of Borrower, expect to pay or anticipate becoming obligated to pay (other than from revenue generated from the operation of the Project) to complete the construction of, and to operate, the Project.

## ARTICLE 5. COVENANTS.

Section 5.2 **Affirmative Covenants.** The Agreement is hereby amended by adding Sections 5.2(t), (u) and (v) as follows:

(t) **Security of Project.** Take such measures to protect the physical security of the Project as Bank may reasonably deem advisable.

(u) **Covenants Regarding the Project.** Observe the following covenants regarding the Project:

(i) The Borrower shall expeditiously complete construction of the Project on the Maryland Heights Property in accordance with the Plans and Specifications approved by Borrower, the Contractor and the Bank in compliance with all applicable statutes, ordinances and regulations, so that such construction shall be fully completed in accordance with the Plans and Specifications approved as above set forth, in any event, not later than February 1, 2022.

(ii) The Contractor shall act as contractor for such construction. A copy of each contract between Borrower and the Contractor shall have been provided to Bank.

(iii) Borrower will not cause or consent to any changes or variances within the Contract without the expressed written consent of the Bank; provided however, Bank consent will not be required on change orders that are on AIA Form G702 and constitute an increase in costs of less than \$50,000 for a single change order or less than \$200,000 in the aggregate. Any savings in any Direct Costs in any line item may be reallocated to any increase in Direct Costs in any other line item in the Project Budget so long as the total construction costs do not exceed the Project Budget by more than \$200,000, but any increases or change orders that cause costs to exceed the Project Budget shall be the sole responsibility of the Borrower. The cost of all change orders must be funded directly by the Borrower at the time of any Request for Disbursement. Any savings in any Indirect Costs (except for Interest) in any line item may be reallocated to any increase in Indirect Costs (except for Interest) in any other line item in the Project Budget so long as the total construction costs do not exceed the Project Budget by more than \$200,000, but any increases or change orders that cause costs to exceed the Project Budget shall be the sole responsibility of the Borrower.

(iv) The Borrower shall not make or consent to any modifications in the Plans and Specifications for the Project after they have been approved by the Bank without the written consent of the Bank if any such modification would result in an increase to Project Budget by more any \$200,000, except any modifications which do not affect the structural integrity of the building or which do not constitute any substantial modification which would adversely affect the value of the completed Project or the cost of completing the Project.

(v) The Borrower shall at all times maintain in effect and furnish the Bank with policies of and proof and payment of premiums on:

(1) During the process of building the Project, the builder's risk insurance as required herein;

(2) After completion of construction of the Project and prior to the use and occupancy thereof, fire, extended coverage, vandalism, malicious mischief, sprinkler leakage and boiler (if any) hazard insurance on the Project in at least the amount of Term Loan 12, with mortgage endorsements in favor of the Bank, if available; provided, however, in the event the Borrower permits any part of the Project to be occupied prior to completion of construction of the entire Project, the Borrower shall obtain appropriate consent from the insurer with respect to such occupancy;

(3) Comprehensive general public liability insurance on the Maryland Heights Property protecting the Borrower and containing a contractual liability clause; and

(4) Insurance against workmen's compensation claims and public liability risks, and such additional insurance in such amounts and covering such risks as is customary by persons or entities owning and operating similar properties.

(vi) The Borrower shall use the proceeds of all advances under the Term Loan 12 which the Borrower may receive directly, if any, solely in payment of costs incurred in connection with acquiring, constructing and developing the Project, as shown on the statements of estimated costs delivered to the Bank.

(vii) During normal business hours and following reasonable prior notice, the Borrower and Seventh Wave Indiana will permit the Bank, through its designated agents, employees or representatives, to have free access to the Project and to inspect all work done and materials furnished in connection with the Project, and to inspect all books, records and contracts of the Borrower and/or Seventh Wave Indiana relating to the Project.

(viii) The Borrower shall keep the Project Inspector and the Bank informed of the progress of construction of the Project. The Borrower shall comply, and shall make all reasonable efforts to cause the Contractor to comply, with all reasonable requirements of the Bank with respect to construction of the Project in accordance with the approved Plans and Specifications.

(ix) The Borrower shall pay all costs and expenses in connection with the Project, including, without limiting the generality of the foregoing, all hazard and liability insurance premiums, title insurance premiums and servicing fees, together with the fees and expenses of the Bank's Project Inspector, and all

reasonable, documented out-of-pocket expenses incurred by the Bank in connection with this financing, including recording and filing fees. Borrower shall also reimburse Bank for any and all reasonable costs, charges and out-of-pocket expenses (including attorneys' fees and time charges of attorneys for Bank), paid or incurred by Bank in connection with the preparation, review, execution, delivery, amendment, modification, administration, collection and enforcement of the Loans and or the Loan Documents.

(x) If the Borrower shall fail promptly to bond or discharge any mechanics lien claim filed or otherwise asserted or to contest any such claims and give security or indemnity in the manner provided above, or, having commenced to contest the same, and having given such security or indemnity, shall thereafter fail to prosecute such contest in good faith or with due diligence, or fail to maintain such indemnity or security so required by the title company, or, upon adverse conclusion of any such contest, shall fail to cause any judgment or decree to be satisfied and lien to be released, then, and in any such event, the Bank shall have the right, at its election, but shall not be required, (i) to procure the release and discharge of any such claim and any judgment or decree thereon, without inquiring into or investigating the amount, validity or enforceability of such lien or claim and (ii) to settle or compromise the same or furnish such security or indemnity to the title company, and any amounts so expended by the Bank, including premiums paid or security furnished in connection with the issuance of any surety company bonds, shall be deemed to constitute disbursements of the Term Loan 12 proceeds hereunder (even if the total amount of disbursements would exceed the face amount of the Term Note 12).

(xi) The Bank, at its expense, may erect a sign on the Maryland Heights Property of a size and design typical for the industry (such sign to be located placed in a place that does not interfere with the construction of the Project or the Borrower's business operations and to be in accordance with applicable government requirements) indicating that financing for the Project has been provided by the Bank. The Bank, at its expense, shall also have the right to engage in reasonable publicity and public relations pertaining to the financing provided by the Bank at times convenient to the Borrower if it is involved. Additionally, Borrower will use best efforts to the extent that it does not interfere in its business operations to include in any public announcement or media release concerning the general development of the Project a statement that the Bank has provided the financing for the Project.

(xii) Borrower shall pay timely all premiums on all insurance policies required in connection with the Project from time to time; and when and as additional insurance is required from time to time during the term of the Loan and when and as any policies of insurance may expire, furnish to the Bank, premiums prepaid, additional and renewal insurance policies in companies, coverage and amounts satisfactory to the Bank, all in accordance with the terms hereof. Notwithstanding this subparagraph in the event of Borrower's default under this

Agreement or any of the Loan Documents, the Bank shall have the right (but not the obligations) to place and maintain insurance required to be placed and maintained by Borrower hereunder and treat the amounts expended therefore as additional disbursements of Loan proceeds (even if the total number of disbursements would exceed the face amount of Term Note 12).

(xiii) If any proceedings are filed seeking to enjoin or otherwise prevent or declare unlawful the construction or the occupancy, maintenance or operation of the Project or any portion thereof, the Borrower shall at its sole expense (i) cause such proceedings to be vigorously contested in good faith and (ii) in the event of an adverse ruling or decision, prosecute all allowable appeals therefrom. Without limiting the generality of the foregoing, Borrower shall resist the entry or seek the stay of any temporary or permanent injunction that may be entered and use its best efforts to bring about a favorable and speedy disposition of all such proceedings.

(xiv) Borrower and Seventh Wave Indiana shall, from time to time, upon the Bank's request, execute, deliver, record and furnish such documents as the Bank may reasonably deem necessary or desirable to (i) perfect and maintain perfected as valid liens upon the Project the liens granted by Seventh Wave Indiana to the Bank under the Maryland Heights Deed of Trust and the other Loan Documents as contemplated by this Agreement, (ii) correct any errors of a typographical nature which may be contained in any of the Loan Documents, and (iii) consummate fully the transaction contemplated under this Agreement.

(xv) On request, Borrower shall provide the Bank with copies of all inspections, reports, test results and other information received by Borrower from time to time from its employees, agents, representatives, architects, engineers, any contractors and any other parties involved in the construction, the design, development or operation of the Project, which in any way relate to the Project or the construction, or any part thereof.

(xvi) Borrower shall receive and hold in trust for the sole benefit of the Bank (and not for the benefit of any other person, including, without limitation, the Contractor or any subcontractors) all advances made hereunder directly to Borrower, for the purpose of having costs of construction paid in accordance with the Project Budget. Borrower will pay all other costs, expenses and fees relating to the acquisition, equipping, fixturing, use and operation of the Project.

(v) **Notice of Litigation.** Give notice to the Bank, within twenty (20) days of the Borrower's learning thereof, of any of the following:

(i) any litigation materially affecting or relating to the Project;

(ii) any dispute between either Borrower and/or Seventh Wave Indiana and any municipal or other governmental authority relating to the Project, the adverse determination of which might materially affect the Project; and

(iii) any threat or commencement of proceedings in condemnation or eminent domain relating to the Property.

Section 5.5 **Covenants Concerning the Property.** The Agreement is hereby amended by adding Section 5.5 as follows:

**Section 5.5 Covenants Concerning the Property.**

(a) **Entry and Inspection.** The Bank and its agents shall, at all reasonable times upon reasonable prior notice, have the right of entry and free access to the Project.

(b) **Permits and Warranties.** The Borrower shall furnish the Bank upon request with true and complete copies of all building and other permits and authorizations required in connection with the operation or occupancy of the Project or any part thereof. The Borrower shall also furnish the Bank upon request with copies of all warranties and guaranties received from any laborer or supplier furnishing labor, materials, equipment, fixtures or furnishings in connection with the Project upon request of the Bank.

(c) **Protection Against Liens.** The Borrower agrees to pay fully and discharge all claims for labor done and for material and services furnished in connection with the Project and to take all other reasonable steps to forestall the assertion of claims of lien against the Project, the Maryland Heights Property, the Personal Property located on the Maryland Heights Property or any part thereof. The Borrower irrevocably appoints, designates and authorizes the Bank as its agent (said agency being coupled with an interest) with the authority, but without any obligation, to file for record any notices that the Bank reasonably deems necessary or desirable to protect its interests in and to the Project pursuant to the First Amendment, the Maryland Heights Deed of Trust, or any of the other First Amendment Loan Documents.

Upon demand by the Bank, the Borrower shall make such demands or claims as the Bank shall specify regarding evidence of labor performed and/or materials supplied upon laborers, materialmen, subcontractors or other persons who have furnished or claim to have furnished labor, services or materials in connection with the construction, maintenance, repair and equipping of the Project. Nothing herein contained shall require the Borrower to pay any claims for labor, materials, or services which the Borrower in good faith disputes and is diligently contesting; provided that the Borrower shall, within thirty (30) days after the filing of any claim of lien, post a surety bond sufficient to release said claim of lien, or provide the Bank, at the Borrower's cost, with such security or assurance (and extensions, renewals or substitutions thereof) as the Bank may in its sole discretion approve in writing.

**ARTICLE 6. CONDITIONS PRECEDENT.**

## Section 6.1 **Conditions to Initial Advance.**

Section 6.1 of the Agreement shall be amended by adding 6.1(x) as follows:

(x) **Documents Related to the Project.** In connection with any initial Advance under Term Loan 12, Bank shall have received:

(i) **Title Commitment.** A commitment to issue an ALTA Loan Policy by the Title Insurance Company in the full amount of Term Loan 12 committing to insure that the Maryland Heights Deed of Trust is a valid first, prior and paramount lien on the Maryland Heights Property, subject only to the Permitted Encumbrances, which commitment (i) shall be free of all exceptions and objections relating to any right to assert claims for mechanics' liens on account of labor and/or materials theretofore furnished to the Maryland Heights Property; and (ii) shall include such endorsements as reasonably requested by Bank, including an unconditional Comprehensive Endorsement No. 1, or like "conformity" endorsement, an access endorsement, a one tax parcel endorsement, a contiguity endorsement (if applicable), a survey endorsement and any other endorsement that Bank may reasonably request.

(ii) **Project Budget.** A detailed cost breakdown for construction and Completion of the Project on AIA Form G702 or in similar format facsimile satisfactory to the Bank certified by the Borrower and the Contractor. This detailed cost breakdown shall contain not less than a source and use of funds for the total cost of the Project ("**Project Budget**") and shall be updated and resubmitted to Bank as soon as possible after any information becomes known to the Borrower which changes such cost breakdown.

(iii) **Construction Contracts.** Certified copies of: (i) the Construction Contract, and (ii) all other contracts relating to the construction of the Project and subcontracts.

(iv) **Plans and Specifications.** copies of plans and specifications for the Project ("**Plans and Specifications**"), in the form approved and signed by the Borrower and the Contractor, and such Plans and Specifications shall contain a certification by the design professional preparing same that the Improvements, if constructed in accordance with such Plans and Specifications, will comply with all governmental rules and regulations including, without limitation, the Americans with Disabilities Act and all zoning and land use restriction.

(v) **Certification of Project Inspector.** The certification of the Project Inspector to the Bank that the Improvements as shown in the Plans and Specifications can be completed at the costs certified by the Borrower and the Contractor.

(vi) **ALTA Survey.** A survey of the Maryland Heights Property, made by a registered land surveyor certified to Bank and the relevant title company made in accordance with the minimum standard detail requirements for American Land Title Association Surveys, showing all boundaries, easements, foundations, improvements, encroachments and special details associated with the Maryland

Heights Property and such additional information which may be requested or required by Bank and the relevant title company or either of them together with any necessary No Change Affidavit or Survey Affidavit required by the title company; this survey must be prepared in such detail as to eliminate any and all survey exceptions from the title policy and any modifications or endorsements thereto.

(vii) **Building Permits.** Copies of all building permits for the Project.

(viii) **Zoning Letters.** Written evidence satisfactory to the Bank that the Maryland Heights Property has been finally zoned to permit the construction, use and occupancy of the Project for its intended use.

(ix) **Utilities.** Written evidence satisfactory to the Bank that a sanitary sewer system, gas, telephone, water and electrical services are available to the Project and in sufficient quantity and that Borrower has all the necessary governmental approvals for the construction and use of a sewer system, if applicable.

(x) **Project Insurance.** Borrower shall have obtained (or caused Contractor to obtain with respect to (i) and (iii) at the time of construction of the Project) and furnished to Bank such insurance and bonds as Bank may reasonably require, in forms of coverage and with insurers acceptable to Bank, including but not limited to the following:

(1) **Builder's Risk Insurance.** Builder's Risk Insurance written on a completed value basis in an amount equal to the full replacement cost of the Improvements at the date of completion with coverage available on the so-called non-reporting "all risk" form of policy, including coverage against collapse and water damage, such insurance to be in such amounts and form and written by such companies as shall be approved by Bank, and the originals of such policies (together with appropriate endorsement thereto, evidence of payment of premiums thereon and written agreements by the insurer or insurers therein to give Bank ten (10) days' prior written notice of any intention to cancel) with a standard mortgagee/beneficiary clause in favor of Bank;

(2) **Hazard Insurance.** All Risk Insurance, including vandalism and malicious mischief, and such other hazard insurance as Bank may require in an amount equal to the full disbursed amount of Term Loan 12 such insurance to be in form and written by such companies as shall be approved by Bank, and in any event in amounts sufficient to prevent the insured from becoming a "co-insurer" thereunder, and the originals of such policies (together with appropriate endorsements thereto, evidence of payment of premiums thereon and written agreement by the insurer or insurers therein to give Bank ten (10) days' prior written notice of any intention to cancel), with a standard mortgagee/beneficiary clause in favor of Bank;

(3) **Contractor's Public Liability.** Comprehensive general liability insurance (including premises and operations, Contractor's

protective, contractual, completed operations) with the exclusion for explosion, collapse and underground property removed, in amounts and coverage of at least One Million Dollars (\$1,000,000) bodily injury/One Million Dollars (\$1,000,000) property damage and with One Million Dollars (\$1,000,000) excess liability umbrella coverage with Borrower and Bank as named insureds;

(4) **Workers' Compensation.** Statutory workers' compensation coverage in the required amounts;

(5) **Boiler Insurance.** Boiler and Machinery Insurance, if applicable, covering physical damage to the Improvements, pressure vessels, pressure piping and other equipment insurable in amounts and coverage acceptable to Bank;

(6) **Flood Insurance.** Flood insurance in the maximum amount required by law if the Maryland Heights Property is within a Special Flood Hazard Area, as determined by the Federal Emergency Management Agency;

(7) **Public Liability Insurance.** Comprehensive General Public Liability Insurance covering the legal liability of Borrower against claims for bodily injury, death or property damage occurring on, in or about the Maryland Heights Property in minimal amounts of One Million Dollars (\$1,000,000) per occurrence with a Two Million and Dollars (\$2,000,000) minimum general aggregate limit. For buildings with elevators, the minimum limit of liability with respect to bodily injury or death and property damage is Three Million Dollars (\$3,000,000) per occurrence with a Six Million Dollars (\$6,000,000) minimum general aggregate limit, with Borrower and Bank as named insureds; and

(8) **Other Insurance.** Such other insurance as Bank may reasonably require.

(xi) **[Reserved].**

(xii) **Environmental Assessment.** A general environmental assessment conducted by an environmental engineer, satisfactory to Bank and at Borrower's expense, of the Maryland Heights Property, including, without limitation, analysis of tests conducted on soil samples from the Maryland Heights Property, indicating that other than what is disclosed in the environmental assessment provided to the Bank, the Maryland Heights Property is in compliance with all laws, rules, and regulations of all federal, state, county or local authority relating to environmental matters within the jurisdiction of such authority.

(xiii) **Appraisal.** An appraisal showing a value acceptable to Bank has been received and satisfactorily reviewed by the Bank.

(xiv) **Flood Insurance Determination.** Determination will be made to the satisfaction of the Bank whether or not the Maryland Heights Property is located in an area designated as requiring flood insurance as established by the Flood

Disaster Act of 1973, as amended, and this determination will be done by an independent contractor engaged by Bank at Borrower's expense. If it is determined that flood insurance is required, then flood insurance in the amount of the loan with a loss payee clause of First Internet Bank of Indiana, 11201 USA Parkway, Fishers, Indiana 46037 will need to be provided at Closing.

(xv) **Flood Insurance Letter.** A flood insurance letter satisfactory to Bank, if applicable.

(xvi) **Confirmation of Recording or Filing.** The Bank shall have received confirmation to its satisfaction that the Documents have been duly executed, acknowledged, delivered and recorded or filed as appropriate.

(xvii) **Endorsement.** The Bank shall have received a date-down and modification endorsement with respect to the ALTA Policy applicable to each parcel of Real Property (other than the Maryland Heights Property) in form satisfactory to the Bank.

(xviii) **Additional Documentation.** Bank shall have received such other documents, instruments, financing statements, waivers, certificates, reaffirmations, consents and opinions as it may request.

Section 6.4 **Additional Conditions to Each Advance Under Term Loan 12.** Section 6.4 shall be added to the Agreement as follows:

Section 6.4 **Additional Conditions to Each Advance Under Term Loan 12.** In addition to the terms and conditions set forth above with respect to each Advance, the following conditions shall apply to Advances under Term Loan 12:

(a) Subject to the provisions of this Agreement and the other Loan Documents, the Bank shall make advances under Term Loan 12 up to the aggregate amount of the Direct and Indirect Costs specified in the Project Budget for the purposes and in the amounts described therein, including advances to the Bank itself for payments to be made by the Borrower to Bank as contemplated by this Agreement and the other Loan Documents; provided however, that, subject to any change orders or deviations from the Project Budget permitted under this Agreement, (i) the amount of each advance other than payments to the Bank will be based upon the percentage of completion of construction work satisfactorily completed, and the amount of costs incurred for the purposes specified in the request for the advance, (ii) no advance shall be made for a cost that exceeds the amount specified for that cost in the Project Budget, (iii) no advance shall be made with respect to the foregoing unless, after the making of any such advance, there remains with the Bank loan proceeds undisbursed in an amount equivalent to the Cost of Completion as reasonably determined by the Bank at the time of such advance, together with the aggregate amount of any holdbacks on any construction contract or subcontract and (iv) in no event shall the total of all advances exceed Four Million Eight Hundred Thirty-Two Thousand Dollars (\$4,832,000).

(b) The Bank will disburse all loan funds to the Borrower as provided in this Agreement in any manner deemed reasonably appropriate by the Bank in its discretion, which may include without limitation, deposits into Borrower's checking account at the Bank, disbursement by wire transfer or the use of checks made payable directly to the

Contractor upon receipt of consent to such direct payment from the appropriate Borrower representative for the payment of which the advance is being made, and the Bank may deduct from each advance, or from the proceeds of Term Loan 12, payments to be made to the Bank pursuant to this Agreement. The Bank shall have the absolute right to appoint its own Project Inspector to make such inspections and examinations of construction at the Maryland Heights Property for its own purposes hereunder as it shall deem appropriate; provided, however, it is understood and agreed that neither the Bank nor any officer, employee or representative of the Bank shall have any obligations, responsibility or liability to Borrower or any other person regarding construction of the Project. Upon the appointment by the Bank of such Project Inspector, Bank shall inform the Borrower thereof and Borrower agrees to pay the Bank for all reasonable and necessary Project Inspector's fees and other costs. The Borrower shall be responsible for making inspections of the Project during the course of construction, and shall determine to its own satisfaction that the work done or material supplied by the Contractor or subcontractors to whom payment is to be made out of each advance has been properly done or supplied in accordance with applicable contracts. Neither the Bank nor any officer, employee or representative of the Bank shall have any liability or responsibility for the satisfactory completion of the Project or any part thereof, nor for inspection during construction, nor for any acts on the part of the Borrower and the Contractor or any subcontractors to be performed in the construction of the Project.

(c) Advances shall be limited to one (1) request per month (excepting any advance by the Bank for payments on Term Loan 12 as they become due). Whenever the Borrower desires to obtain an Advance, the Borrower shall submit to the Bank a Request for Disbursement in the current form of AIA Form G702, or a similar form after reviewed and approved by Bank (each a “**Request for Disbursement**”), signed by Borrower and Contractor and certified by the Contractor that the work has progressed as indicated, the quality of the work is in accordance with the Plans and Specifications and the Contract and that the Contractor or other payees are entitled to payment of the amount certified, together with the appropriate AIA Form G703, at least five (5) business days prior to the date on which the advance is to be funded (the “**Advance Date**”). The Borrower shall also submit to the Bank the following in form and content satisfactory to the Bank with each request for an advance:

(i) A Borrower’s Receipt and Certification relating to each Request for Disbursement, signed by the Borrower, the content of which shall be in form satisfactory to the Bank;

(ii) Copies of the invoices for all Direct and Indirect Costs outside of those referenced in the building contract between the Borrower and the Contractor to be paid with the Advance;

(iii) With respect to the advance to occur on the date of the initial Advance, all available mechanic’s lien waivers, accompanied by a mechanic’s lien waiver from the Contractor for the balance of work performed and materials supplied through the initial Advance Date with respect to certain work done and materials supplied by certain subcontractors, with the individual mechanic’s lien and/or materialman’s lien waivers to be supplied upon the date of the next Request for Disbursement;

(iv) With respect to any subsequent advances, waivers of mechanic's lien and/or materialman's lien executed by each contractor, subcontractor and material supplier for whom payment was requested in the immediately preceding Request for Disbursement, covering liens for all work done and materials supplied that were referenced or included in the immediately preceding Request for Disbursement; and

(v) Evidence that all Loan proceeds disbursed to date have been applied to payment of costs to the Project (including but not limited to, satisfactory waivers of mechanics and materialmen's liens).

(d) The Project Inspector shall complete an inspection and prepare a lender's quality assurance inspection report on a monthly basis, and disbursement is subject to written approval from the Project Inspector for the advance and a statement from the same that in his/her opinion the work and material that the advance will pay for has been performed or supplied to the Project and that the funds remaining (including funds deposited with Bank by Borrower) are sufficient to complete the Project.

(e) Upon receipt of each Request for Disbursement, Bank shall request that the title company shall (i) deliver to the Bank an endorsement to the title policy dated as of the relevant Advance Date, and covering the amount of the requested disbursement so that the total amount insured by the title policy equals the total amount disbursed by the Bank under the terms of this Agreement (or at the option of the Bank, confirmation from the title company that all requirements for the issuance of such an endorsement have been satisfied and confirmation that the title company will issue such an endorsement within a specified time acceptable to the Bank), and (ii) give the Bank immediate notice by telephone if any intervening liens are disclosed (other than those expressly listed in the title company's report or commitment identified above). If the endorsement does not occur or if any such intervening liens are disclosed, disbursement of further advances shall be withheld until the Bank shall have been satisfied that such intervening liens have been waived or satisfied.

(f) The Bank shall have the right to require at Borrower's reasonable and necessary cost, any additional information to complete the Bank's analysis of each disbursement request of Borrower.

(g) In the event that any inspection report reveals that the total cost of the Project is over the Project Budget (other than as permitted under Sections 5.2(u)(iii) or (iv)), Borrower shall provide documentation satisfactory to Bank evidencing funding for such amounts over the Project Budget as identified by the Project Inspector.

(h) The Bank shall be reasonably satisfied as to the continuing accuracy of the Project Budget.

(i) No event, circumstance or condition exists or has occurred which could, in the Bank's reasonable judgment, delay or prevent the completion of the Project by the date required by February 1, 2022.

(j) No Material Adverse Change has occurred since December 31, 2020.

(k) The construction of the Project shall be in accordance with the Plans and Specifications, as modified pursuant to the terms of this Agreement by any change orders approved by the Bank or otherwise permitted under Sections 5.2(u)(iii) or (iv), and no

damage to, or destruction or condemnation of the Project or any material portion thereof shall have occurred.

(l) The Bank has received a reasonably satisfactory report from the Project Inspector.

(m) No advance for materials purchased but not yet installed or incorporated into the Project shall be made without the Bank's prior approval of the conditions under which such materials are purchased and stored, except the Bank's prior approval shall not be required for advances on material purchased but not yet installed or incorporated into the Project when the same have been delivered on site or to a bonded warehouse and accepted by the Borrower. Borrower shall provide the Bank, in connection with such materials, a copy of a bill of sale or other evidence of title in Borrower, together with a copy of the Uniform Commercial Code searches against Borrower and the warehouseman, if applicable, indicating no liens or claims which may affect such materials.

(n) At such time as the Project shall have been substantially completed, the Borrower shall submit to the Bank a final Request for Disbursement in an amount not to exceed the amount of the Direct Costs shown on the Project Budget, as modified by any change orders undertaken pursuant to the terms of this Agreement, less the aggregate amount of all previous disbursements made by the Bank, together with documentation required for all advances. In addition to the items required above for each draw, the final Request for Disbursement for the final advance shall be accompanied by the following, all of which shall be satisfactory to the Bank:

(i) Certificates from the Borrower and the Contractor and from the Project Inspector that the Project has been completed in accordance with the Plans and Specifications.

(ii) A certificate or a certificate of occupancy from all applicable governmental authorities for all portions of the Project.

(iii) Any other certificates, licenses and permits required by any applicable governmental authority for the use, occupancy, or operation of the Project and in accordance with the terms of the tenant leases.

(iv) All fixtures, furniture, furnishings, equipment and other property contemplated under the Project budget and Plans and Specifications to be incorporated into or installed in the Project shall have been incorporated or installed free and clear of all liens and security interests other than the Permitted Exceptions, except those in favor of the Bank.

(v) Borrower has furnished to the Bank a survey of the Project "as built" prepared by the surveyor or engineer preparing the survey for closing, showing all paving, driveways, fences and exterior improvements and otherwise in compliance with this Agreement.

(vi) An affidavit of the Contractor stating that each person providing any material or performing any work in connection with the Project has been paid in full and that all withholding taxes have been paid.

(vii) Any permits, application for license, certificates of occupancy or other evidence of compliance with the requirements of any governmental authorities necessary for use of the Maryland Heights Property contemplated in the Plans and Specifications.

(viii) A satisfactory final inspection report of the Project Inspector.

(ix) Evidence that all insurance required under the terms of this Agreement is in full force and effect.

(x) A final endorsement to the title policy satisfactory to the Bank, which would include without limitation a 3.1 Zoning Endorsement unless in writing the Bank consents to a waiver of this requirement or accepts other assurances of proper zoning of the Project as completed.

(o) Such other items as may be reasonably required by the Bank, including, without limitation, evidence that the Improvements have been completed to the satisfaction of the Bank.

## ARTICLE 7. DEFAULT.

### Section 7.1 **Default.**

Section 7.1 of the Agreement shall be amended by adding 7.1(t) and (u) as follows:

(t) Cessation of operation by the Borrower of the Project (except as a result of damage, destruction or condemnation of the Property or the Personal Property if the Borrower and Seventh Wave Indiana thereafter comply with the provisions of the Maryland Heights Deed of Trust or Security Agreement pertaining thereto); and

(u) Construction of the Project shall be abandoned, or shall be discontinued for a period of thirty (30) business days (for reasons other than those beyond the control of the Borrower or the Contractor), or construction shall be delayed for any reason whatsoever to the extent that completion of the Project cannot, in the reasonable judgment of the Bank, be accomplished prior to February 1, 2022.

## PART II. CONTINUING EFFECT

Except as expressly modified herein:

(a) All terms, conditions, representations, warranties and covenants contained in the Agreement shall remain the same and shall continue in full force and effect, interpreted, wherever possible, in a manner consistent with this First Amendment; *provided, however*, in the event of any irreconcilable inconsistency, this First Amendment shall control;

(b) The representations and warranties contained in the Agreement shall survive this First Amendment in their original form as continuing representations and warranties of Borrower; and

(c) Capitalized terms used in this First Amendment, and not specifically herein defined, shall have the meanings ascribed to them in the Agreement.

In consideration hereof, Borrower represents, warrants, covenants and agrees that:

(aa) Each representation and warranty set forth in the Agreement, as hereby amended, remains true and correct as of the date hereof in all material respects, except to the extent that such representation and warranty is expressly intended to apply solely to an earlier date and except changes reflecting transactions permitted by the Agreement;

(bb) There currently exist no offsets, counterclaims or defenses to the performance of the Obligations (such offsets, counterclaims or defenses, if any, being hereby expressly waived);

(cc) Except as expressly waived in writing by Bank, there has not occurred any Default or Unmatured Default; and

(dd) After giving effect to this First Amendment and any transactions contemplated hereby, no Default or Unmatured Default is or will be occasioned hereby or thereby.

### PART III. CONDITIONS PRECEDENT

Notwithstanding anything contained in this First Amendment to the contrary, Bank shall have no obligation under this First Amendment until each of the following conditions precedent have been fulfilled to the satisfaction of Bank:

(a) Each of the conditions set forth in Sections 6.1(x) and 6.4 of the Agreement shall have been satisfied;

(b) Bank shall have received each of the following, in form and substance satisfactory to Bank:

(i) The First Amendment Loan Documents, each duly executed in the forms prescribed by Bank;

(ii) Certified copies of Borrower's and Subsidiaries' articles of incorporation, articles of organization or certificate of formation, as applicable, and bylaws and operating agreement, as applicable, all as amended (or certification as to no change to the foregoing since the immediate prior delivery of same to the Bank), accompanied by a recent certificate of existence issued by the appropriate official of its respective place of organization, certificates of good standing from those states in which Borrower and Subsidiaries are qualified to do business and a

certified copy of resolutions adopted by Borrower's and Subsidiaries' board of directors or managers, as applicable, authorizing this First Amendment and the transactions contemplated hereby, and specifying the persons authorized to execute and deliver the Loan Documents; and

(c) Bank shall have received a non-refundable facility fee with respect to Term Loan 12 in the amount of \$48,320.

#### PART IV. EXPENSES AND FEES

Borrower shall reimburse Bank for all legal fees and other expenses. Bank is hereby authorized to debit Borrower's deposit account maintained at Bank for such legal fees and other fees and expenses.

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, Borrower and Bank have caused this First Amendment to Amended and Restated Credit Agreement to be executed by their respective officers duly authorized as of the date first above written.

“BORROWER”

INOTIV, INC. (formerly known as Bioanalytical Systems, Inc.)

By: /s/ Beth A. Taylor

Beth A. Taylor, Chief Financial Officer  
& Vice President-Finance

“BANK”

FIRST INTERNET BANK OF INDIANA

By: /s/ Katrina McWilliams

Katrina McWilliams, Vice President

May 5, 2021

Inotiv, Inc.  
2701 Kent Avenue  
West Lafayette, IN 47906

Attention: Robert Leasure, Jr., President

RE: Amended and Restated Credit Agreement dated as of April 30, 2021 (the “**Credit Agreement**”), between INOTIV, INC. (FORMERLY KNOWN AS BIOANALYTICAL SYSTEMS, INC.) (the “**Borrower**”), and FIRST INTERNET BANK OF INDIANA (the “**Bank**”)

Dear Mr. Leasure:

The Bank hereby acknowledges that in connection with the BBP Acquisition, a failure occurred in connection with the consummation of the merger of Rock Mergeco, Inc., a Colorado corporation (the “**Merger Sub**”), into BBP on April 30, 2021, thereby preventing the merger of BBP, as the surviving corporation of the merger with the Merger Sub, into Inotiv Boulder, LLC, an Indiana limited liability company (“**IB**”), with IB as the surviving entity, as contemplated by the BBP Acquisition Documents. The consummation of the proposed merger of the Merger Sub into BBP and the proposed merger of BBP into IB have now occurred, and such mergers were effective as of May 3, 2021 (the “**Delayed Merger Effective Date**”). A number of representations and warranties made by the Borrower and IB under the Credit Agreement and the other Loan Documents and a number of disclosure Schedules to the Credit Agreement and the other Loan Documents represent that IB owned the equity interest in BBP as a result of closing of the BBP acquisition and the merger of BBP into IB as of April 30, 2021, the execution date of the Credit Agreement. Pursuant to your request, Bank hereby (i) consents to the Delayed Merger Effective Date, and (ii) waives any Event of Default arising under the Credit Agreement and the other Loan Documents as a result of the Delayed Merger Effective Date.

Capitalized terms used herein and not defined herein have the meanings ascribed thereto in the Credit Agreement. This waiver is specifically limited to the matters described above and shall be in force and effect solely for the referenced periods, unless otherwise agreed in writing by the Bank in the exercise of its sole discretion. This waiver shall not waive or amend any other term, covenant or agreement of the Credit Agreement or any other Loan Document, shall not be deemed to be a waiver or amendment of any other term, covenant or agreement of the Credit Agreement or any other loan document, and shall not be deemed to prejudice any present or future right or rights which the Bank now has or may have thereunder. This waiver shall not be deemed to waive any default, whether now existing or hereafter existing, whether known, unknown or otherwise, except as specifically set forth herein.

The Borrower agrees to reimburse the Bank for all legal fees and other expenses incurred by the Bank in connection with this letter and the transactions contemplated hereby.

The Borrower further agrees that the Credit Agreement and the other Loan Documents are ratified and confirmed and shall remain in full force and effect and that it currently has no set off, counterclaim, defense or other claim or dispute with respect to any of the foregoing. All capitalized terms used but not defined herein have the meanings ascribed thereto in the Credit Agreement. This letter may be executed in any number of counterparts, and electronic signatures shall be enforceable as originals. This letter shall be effective when signed by the Borrower and the Bank.

If you agree to the terms and provisions hereof, please evidence such agreement by executing and e-mailing by PDF one counterpart of this Waiver Letter to Katrina McWilliams at [kmcwilliams@firstib.com](mailto:kmcwilliams@firstib.com).

Very truly yours,

FIRST INTERNET BANK OF INDIANA

By: /s/ Katrina McWilliams  
Katrina McWilliams, Vice President

ACCEPTED AND AGREED:

**“Borrower”**

INOTIV, INC.

By: /s/ Robert Leasure, Jr.  
Robert Leasure, Jr., President

## CERTIFICATIONS

I, Robert W. Leasure, Jr., President and Chief Executive Officer, certify that:

1. I have reviewed this report on Form 10-Q of Inotiv, Inc.;
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 that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
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.

/s/ Robert W. Leasure, Jr.

Robert W. Leasure, Jr.

President and Chief Executive Officer

Date: December 21, 2021

## CERTIFICATIONS

I, Beth A. Taylor, Vice President of Finance and Chief Financial Officer, certify that:

1. I have reviewed this report on Form 10-Q of Inotiv, Inc.;
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 that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting.
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.

/s/ Beth A. Taylor

Beth A. Taylor

Vice President of Finance and Chief Financial Officer

Date: December 21, 2021

**Certifications of Acting Principal Executive Officer**

**Pursuant to Section 906**

**Of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350)**

The undersigned, the President and Chief Executive Officer of Inoriv, Inc. (the “Company”), hereby certifies that, to the best of his knowledge:

- (a) the Form 10-Q Quarterly Report of the Company for the three and nine months ended June 30, 2021 filed with the Securities and Exchange Commission (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Robert W. Leasure, Jr.

Robert W. Leasure, Jr.

President and Chief Executive Officer

Date: December 21, 2021

**Certifications of Chief Financial Officer**

**Pursuant to Section 906**

**Of the Sarbanes-Oxley Act of 2002 (18 U.S.C. Section 1350)**

The undersigned, the Vice President of Finance and Chief Financial Officer of Inotiv, Inc. (the “Company”), hereby certifies that, to the best of her knowledge:

- (a) the Form 10-Q Quarterly Report of the Company for the three and nine months ended June 30, 2021 filed with the Securities and Exchange Commission (the “Report”) fully complies with the requirements of Section 13(a) or 15(d) of the Securities Exchange Act of 1934; and
- (b) the information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

By: /s/ Beth A. Taylor

Beth A. Taylor

Vice President of Finance and Chief Financial Officer

Date: December 21, 2021