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

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**FORM 10-Q**

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

For the Quarterly Period Ended June 25, 2017

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

Commission file number 001-34460

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**KRATOS DEFENSE & SECURITY SOLUTIONS, INC.**

(Exact name of Registrant as specified in its charter)

**Delaware**

(State or other jurisdiction of  
incorporation or organization)

**13-3818604**

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

**4820 Eastgate Mall, Suite 200  
San Diego, CA 92121  
(858) 812-7300**

(Address, including zip code, and telephone number, including  
area code, of Registrant's principal executive offices)

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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 and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (Section 232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes  No

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

Large accelerated filer

Accelerated filer

Non-accelerated filer

Smaller reporting company

(Do not check if a 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. Yes  No

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 July 21, 2017, 87,023,911 shares of the registrant's common stock were outstanding.

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**KRATOS DEFENSE & SECURITY SOLUTIONS, INC.**  
**FORM 10-Q**  
**FOR THE QUARTERLY PERIOD ENDED JUNE 25, 2017**  
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## PART I. FINANCIAL INFORMATION

## Item 1. Financial Statements.

**KRATOS DEFENSE & SECURITY SOLUTIONS, INC.**  
**CONDENSED CONSOLIDATED BALANCE SHEETS**  
(in millions, except par value and number of shares)  
(Unaudited)

	June 25, 2017	December 25, 2016
<b>Assets</b>		
<b>Current assets:</b>		
Cash and cash equivalents	\$ 63.3	\$ 69.1
Restricted cash	0.2	0.5
Accounts receivable, net	226.6	229.4
Inventoried costs	61.5	55.4
Prepaid expenses	10.8	8.9
Other current assets	11.4	9.8
<b>Total current assets</b>	<b>373.8</b>	<b>373.1</b>
Property, plant and equipment, net	55.0	49.8
Goodwill	485.4	485.4
Intangible assets, net	27.3	32.6
Other assets	8.5	7.7
<b>Total assets</b>	<b>\$ 950.0</b>	<b>\$ 948.6</b>
<b>Liabilities and Stockholders' Equity</b>		
<b>Current liabilities:</b>		
Accounts payable	\$ 55.8	\$ 52.7
Accrued expenses	45.1	50.0
Accrued compensation	35.6	39.1
Accrued interest	3.0	3.6
Billings in excess of costs and earnings on uncompleted contracts	40.3	41.8
Other current liabilities	6.1	7.7
Current liabilities of discontinued operations	1.2	1.6
<b>Total current liabilities</b>	<b>187.1</b>	<b>196.5</b>
Long-term debt, net of current portion	369.5	431.0
Other long-term liabilities	42.6	41.0
Non-current liabilities of discontinued operations	3.8	3.7
<b>Total liabilities</b>	<b>603.0</b>	<b>672.2</b>
<b>Commitments and contingencies</b>		
<b>Stockholders' equity:</b>		
Preferred stock, \$0.001 par value, 5,000,000 shares authorized, 0 shares outstanding at June 25, 2017 and December 25, 2016	—	—
Common stock, \$0.001 par value, 195,000,000 shares authorized; 86,634,053 and 73,945,533 shares issued and outstanding at June 25, 2017 and December 25, 2016, respectively	—	—
Additional paid-in capital	1,042.7	956.2
Accumulated other comprehensive loss	(1.5)	(1.7)
Accumulated deficit	(694.2)	(678.1)
<b>Total stockholders' equity</b>	<b>347.0</b>	<b>276.4</b>
<b>Total liabilities and stockholders' equity</b>	<b>\$ 950.0</b>	<b>\$ 948.6</b>

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

**KRATOS DEFENSE & SECURITY SOLUTIONS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF OPERATIONS AND COMPREHENSIVE LOSS**  
(in millions, except per share amounts)  
(Unaudited)

	Three Months Ended		Six Months Ended	
	June 25, 2017	June 26, 2016	June 25, 2017	June 26, 2016
Service revenues	\$ 91.6	\$ 88.2	\$ 176.6	\$ 170.8
Product sales	94.1	80.0	176.9	150.4
Total revenues	185.7	168.2	353.5	321.2
Cost of service revenues	67.0	64.4	128.8	124.7
Cost of product sales	71.3	58.6	132.2	115.4
Total costs	138.3	123.0	261.0	240.1
Gross profit	47.4	45.2	92.5	81.1
Selling, general and administrative expenses	40.6	36.4	79.3	74.1
Research and development expenses	4.1	4.0	8.5	6.9
Unused office space, restructuring expenses, and other	0.1	4.8	0.4	10.3
Operating income (loss) from continuing operations	2.6	—	4.3	(10.2)
Other income (expense):				
Interest expense, net	(7.2)	(8.7)	(15.4)	(17.4)
Loss on extinguishment of debt	—	—	(2.1)	—
Other income, net	0.2	0.2	0.4	0.5
Total other expense, net	(7.0)	(8.5)	(17.1)	(16.9)
Loss from continuing operations before income taxes	(4.4)	(8.5)	(12.8)	(27.1)
Provision for income taxes from continuing operations	1.8	1.8	3.3	5.4
Loss from continuing operations	(6.2)	(10.3)	(16.1)	(32.5)
Discontinued operations				
Loss from operations of discontinued component	—	(0.1)	(0.1)	(0.1)
Income tax benefit	—	—	—	—
Loss from discontinued operations	—	(0.1)	(0.1)	(0.1)
Net loss	\$ (6.2)	\$ (10.4)	\$ (16.2)	\$ (32.6)
Basic and diluted loss per common share:				
Loss from continuing operations	\$ (0.07)	\$ (0.17)	\$ (0.20)	\$ (0.54)
Loss from discontinued operations	—	—	—	(0.01)
Net loss per common share	\$ (0.07)	\$ (0.17)	\$ (0.20)	\$ (0.55)
Basic and diluted weighted average common shares outstanding	86.6	59.8	82.0	59.7
<b>Comprehensive Loss</b>				
Net loss (from above)	\$ (6.2)	\$ (10.4)	\$ (16.2)	\$ (32.6)
Change in cumulative translation adjustment	—	(0.1)	0.1	(0.1)
Comprehensive loss	\$ (6.2)	\$ (10.5)	\$ (16.1)	\$ (32.7)

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

**KRATOS DEFENSE & SECURITY SOLUTIONS, INC.**  
**CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS**  
(in millions)  
(Unaudited)

	Six Months Ended	
	June 25, 2017	June 26, 2016
<b>Operating activities:</b>		
Net loss	\$ (16.2)	\$ (32.6)
Loss from discontinued operations	0.1	0.1
Loss from continuing operations	(16.1)	(32.5)
Adjustments to reconcile loss from continuing operations to net cash used in operating activities from continuing operations:		
Depreciation and amortization	11.0	11.7
Stock-based compensation	4.0	3.1
Deferred income taxes	2.3	2.0
Amortization of deferred financing costs	0.7	0.8
Amortization of discount on Senior Secured Notes	0.4	0.4
Loss on extinguishment of debt	2.1	—
Provision for doubtful accounts	—	0.2
Litigation related charges	—	1.7
Provision for non-cash restructuring charges	—	7.7
Changes in assets and liabilities, net of acquisitions:		
Accounts receivable	2.9	(6.2)
Inventoried costs	(7.4)	(3.2)
Prepaid expenses and other assets	(7.0)	0.6
Accounts payable	4.4	(1.3)
Accrued expenses	(4.7)	(2.0)
Accrued compensation	(3.6)	(2.7)
Advance payments received on contracts	1.4	5.9
Accrued interest	(0.5)	—
Billings in excess of costs and earnings on uncompleted contracts	(1.5)	0.9
Income tax receivable and payable	1.3	0.1
Other liabilities	(1.0)	0.4
Net cash used in operating activities from continuing operations	(11.3)	(12.4)
<b>Investing activities:</b>		
Change in restricted cash	0.2	—
Capital expenditures	(12.7)	(3.5)
Proceeds from sale of assets	0.6	—
Net cash used in investing activities from continuing operations	(11.9)	(3.5)
<b>Financing activities:</b>		
Extinguishment of long-term debt	(64.0)	—
Proceeds from the issuance of common stock	81.7	—
Repayment of debt	(0.5)	(0.5)
Proceeds from exercise of restricted stock units, employee stock options, and employee stock purchase plan	0.6	1.0
Net cash provided by financing activities from continuing operations	17.8	0.5
Net cash flows of continuing operations	(5.4)	(15.4)
Net operating cash flows of discontinued operations	(0.1)	0.1
Net investing cash flows of discontinued operations	(0.4)	4.5
Effect of exchange rate changes on cash and cash equivalents	0.1	(0.1)
Net decrease in cash and cash equivalents	(5.8)	(10.9)
Cash and cash equivalents at beginning of period	69.1	28.5
Cash and cash equivalents at end of period	\$ 63.3	\$ 17.6

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

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS

(Unaudited)

**Note 1. Summary of Significant Accounting Policies**

All references to the “Company” and “Kratos” refer to Kratos Defense & Security Solutions, Inc., a Delaware corporation, and its subsidiaries.

**(a) Basis of Presentation**

The information as of June 25, 2017 and for the three and six months ended June 25, 2017 and June 26, 2016 is unaudited. The condensed consolidated balance sheet as of December 25, 2016 was derived from the Company’s audited consolidated financial statements at that date. In the opinion of management, these unaudited condensed consolidated financial statements include all adjustments, consisting of normal recurring adjustments necessary for a fair presentation of the Company’s financial position, results of operations and cash flows for the interim periods presented. The results have been prepared in accordance with the instructions to Form 10-Q and do not necessarily include all information and footnotes necessary for presentation in accordance with accounting principles generally accepted in the U.S. These unaudited condensed consolidated financial statements should be read in conjunction with the consolidated financial statements and the related notes included in the Company’s audited annual consolidated financial statements for the fiscal year ended December 25, 2016, included in the Company’s Annual Report on Form 10-K filed with the U.S. Securities and Exchange Commission on February 27, 2017 (the “Form 10-K”). Interim operating results are not necessarily indicative of operating results expected in subsequent periods or for the year as a whole.

**(b) Principles of Consolidation**

The condensed consolidated financial statements include the accounts of the Company and its 100% owned subsidiaries for which all inter-company transactions have been eliminated in consolidation.

**(c) Fiscal Year**

The Company has a 52/53 week fiscal year ending on the last Sunday of the calendar year, with interim fiscal periods ending on the last Sunday of each calendar quarter. The three and six month periods ended June 25, 2017 and June 26, 2016 consisted of 13-week periods. There are 53 calendar weeks in the fiscal year ending on December 31, 2017 and 52 calendar weeks in the fiscal year ending on December 25, 2016.

**(d) Accounting Estimates**

There have been no significant changes in the Company’s accounting estimates for the three and six months ended June 25, 2017 as compared to the accounting estimates described in the Form 10-K.

**(e) Accounting Standards Updates**

In May 2017, the Financial Accounting Standards Board (“FASB”) issued Accounting Standards Update (“ASU”) 2017-09 (“ASU 2017-09”), *Compensation—Stock Compensation (Topic 718): Scope of Modification Accounting*. ASU 2017-09 was issued to provide guidance about which changes to the terms or conditions of a share-based payment award require an entity to apply modification accounting. The amendments in this ASU are effective for annual periods beginning after December 15, 2017. The Company does not expect that the standard will have a material effect on its consolidated financial statements and will apply this guidance to applicable transactions after the adoption date.

In January 2017, the FASB issued ASU 2017-04 (“ASU 2017-04”), *Intangibles - Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. ASU 2017-04 amends the guidance to simplify the subsequent measurement of goodwill by removing Step 2 of the goodwill impairment test. Instead, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit’s fair value. ASU 2017-04 is effective for annual reporting periods beginning after December 15, 2019, with early adoption permitted. The Company is

currently evaluating the impact of the new guidance and timing of adoption, but does not expect that the standard will have a material impact on its consolidated financial statements.

In October 2016, the FASB issued ASU 2016-16 (“ASU 2016-16”), *Income Taxes (Topic 740), Intra-Entity Transfers of Assets Other Than Inventory*. ASU 2016-16 requires that entities recognize the income tax consequences of an intra-entity transfer of an asset other than inventory when the transfer occurs, rather than when the asset is sold to an outside party. ASU 2016-16 is effective for annual reporting periods beginning after December 15, 2017, including interim periods within those annual reporting periods. Early adoption is permitted as of the beginning of an annual reporting period (as of the first interim period if an entity issues interim financial statements). ASU 2016-16 requires adoption on a modified retrospective basis through a cumulative-effect adjustment directly to retained earnings as of the beginning of the period of adoption. The Company early adopted this standard on December 26, 2016. The adoption of this guidance did not have a material impact on the Company’s consolidated financial statements.

In August 2016, the FASB issued ASU 2016-15 (“ASU 2016-15”), *Statement of Cash Flows (Topic 230): Classification of Certain Cash Receipts and Cash Payments*. The objective of ASU 2016-15 is to reduce existing diversity in practice by addressing eight specific cash flow issues related to how certain cash receipts and cash payments are presented and classified in the statement of cash flows. ASU 2016-15 is effective for fiscal years beginning after December 15, 2017, including interim periods within those fiscal years. Early adoption is permitted. If early adopted, an entity must adopt all of the amendments in the same period. The Company does not believe that the adoption of this guidance will have a material impact on its consolidated financial statements.

In March 2016, the FASB issued ASU 2016-09 (“ASU 2016-09”), *Compensation - Stock Compensation (Topic 718): Improvements to Employee Share-Based Payment Accounting*. ASU 2016-09 simplifies several aspects of the accounting for employee share-based payments, including accounting for income taxes, forfeitures, statutory tax withholding requirements, and classification on the statement of cash flows. The amendments in this ASU are effective for annual periods beginning after December 15, 2016, with early adoption permitted. The Company early adopted this standard in the quarter ended December 25, 2016, which did not have a material impact on its consolidated financial statements.

In February 2016, the FASB issued ASU 2016-02 (“ASU 2016-02”), *Leases*. ASU 2016-02 requires that lessees recognize assets and liabilities for the rights and obligations for leases with a lease term of more than one year. The amendments in this ASU are effective for annual periods beginning after December 15, 2018. Early adoption is permitted. The Company is currently evaluating the impact of the adoption of ASU 2016-02 on its consolidated financial statements.

In May 2014, the FASB issued ASU 2014-09 (“ASU 2014-09”), *Revenue from Contracts with Customers*. ASU 2014-09 establishes a broad principle that would require an entity to recognize revenue to depict the transfer of promised goods or services to customers in an amount that reflects the consideration to which the entity expects to be entitled in exchange for those goods or services. The FASB has also issued several updates to ASU 2014-09. The new standard supersedes U.S. GAAP guidance on revenue recognition and requires the use of more estimates and judgments than the present standards. It also requires additional disclosures. ASU 2014-09 may be applied either retrospectively or through the use of a modified-retrospective method. The full retrospective method requires companies to recast each prior reporting period presented as if the new guidance had always existed. Under the modified retrospective method, companies would recognize the cumulative effect of initially applying the standard as an adjustment to the opening balance of retained earnings at the date of initial application. The Company plans to adopt the new revenue standard effective January 1, 2018, by recognizing the cumulative effect of initially applying the new standard as an increase to the opening balance of retained earnings.

While the Company has not yet fully completed its evaluation of the impact of ASU 2014-09 upon adoption, based upon an assessment of material active contracts, the Company does not expect the impact on the results of operations or cash flows in the periods after adoption to be material. Under ASU 2014-09, revenue is recognized as control transfers to the customer. As such, revenue for the Company’s contracts will generally be recognized over time using the cost-to-cost method, which is consistent with the revenue recognition model currently in use for the majority of contracts. For those contracts where revenue is currently recognized as units are delivered, in most cases the accounting for those contracts will change under ASU 2014-09 such that revenue will be recognized as costs are incurred. This change will generally result in an acceleration of revenue as compared with the current revenue recognition method for those contracts.

There have been no changes in the Company’s significant accounting policies for the three and six months ended June 25, 2017 as compared to the significant accounting policies described in the Form 10-K.

**(f) Fair Value of Financial Instruments**

The carrying amounts and the related estimated fair values of the Company's long-term debt financial instruments not measured at fair value on a recurring basis at June 25, 2017 and December 25, 2016 are presented in Note 7. The carrying value of all other financial instruments, including cash equivalents, accounts receivable, accounts payable, accrued expenses, billings in excess of cost and earnings on uncompleted contracts, income taxes payable and short-term debt, approximated their estimated fair values at June 25, 2017 and December 25, 2016 due to the short-term nature of these instruments.

**Note 2. Goodwill and Intangible Assets**
**(a) Goodwill**

The carrying amounts of goodwill as of June 25, 2017 and December 25, 2016 by reportable segment are as follows (in millions):

	Kratos Government Solutions	Public Safety & Security	Unmanned Systems	Total
Gross value	\$ 567.8	\$ 53.9	\$ 111.1	\$ 732.8
Less accumulated impairment	215.3	18.3	13.8	247.4
Net	<u>\$ 352.5</u>	<u>\$ 35.6</u>	<u>\$ 97.3</u>	<u>\$ 485.4</u>

**(b) Purchased Intangible Assets**

The following table sets forth information for finite-lived and indefinite-lived intangible assets (in millions):

	As of June 25, 2017			As of December 25, 2016		
	Gross Value	Accumulated Amortization	Net Value	Gross Value	Accumulated Amortization	Net Value
Acquired finite-lived intangible assets:						
Customer relationships	\$ 53.7	\$ (47.6)	\$ 6.1	\$ 53.7	\$ (44.9)	\$ 8.8
Contracts and backlog	30.8	(24.7)	6.1	30.8	(23.7)	7.1
Developed technology and technical know-how	25.2	(17.2)	8.0	25.2	(15.7)	9.5
Trade names	1.4	(1.2)	0.2	1.4	(1.1)	0.3
Total finite-lived intangible assets	111.1	(90.7)	20.4	111.1	(85.4)	25.7
Indefinite-lived trade names	6.9	—	6.9	6.9	—	6.9
Total intangible assets	<u>\$ 118.0</u>	<u>\$ (90.7)</u>	<u>\$ 27.3</u>	<u>\$ 118.0</u>	<u>\$ (85.4)</u>	<u>\$ 32.6</u>

Consolidated amortization expense related to intangible assets subject to amortization was \$5.4 million and \$5.3 million for the six months ended June 25, 2017 and June 26, 2016, respectively.

**Note 3. Inventoried Costs**

Inventoried costs consisted of the following components (in millions):

	June 25, 2017	December 25, 2016
Raw materials	\$ 31.4	\$ 31.9
Work in process	29.3	22.1
Finished goods	2.0	1.4
Supplies and other	2.0	1.8
Subtotal inventoried costs	64.7	57.2
Less: Customer advances and progress payments	(3.2)	(1.8)
Total inventoried costs	<u>\$ 61.5</u>	<u>\$ 55.4</u>

**Note 4. Stockholders' Equity**

A summary of the changes in stockholders' equity is provided below (in millions):

	For the Six Months Ended	
	June 25, 2017	June 26, 2016
Stockholders' equity at beginning of period	\$ 276.4	\$ 254.2
Comprehensive loss:		
Net loss	(16.2)	(32.6)
Change in cumulative translation adjustment	0.1	(0.1)
Total comprehensive loss	(16.1)	(32.7)
Exercise of stock options and warrants	0.4	—
Stock-based compensation	4.0	3.1
Issuance of common stock for cash	81.9	—
Issuance of common stock for employee stock purchase plan	1.4	1.3
Restricted stock units traded for taxes	(1.0)	(0.3)
Stockholders' equity at end of period	<u>\$ 347.0</u>	<u>\$ 225.6</u>

The components of accumulated other comprehensive loss are as follows (in millions):

	June 25, 2017	June 26, 2016
Cumulative translation adjustment	\$ (0.9)	\$ (0.7)
Post-retirement benefit reserve adjustment net of tax expense	(0.6)	(0.8)
Total accumulated other comprehensive loss	<u>\$ (1.5)</u>	<u>\$ (1.5)</u>

There were no reclassifications from accumulated other comprehensive loss to net loss for the six months ended June 25, 2017 and June 26, 2016.

Common stock issued by the Company for the six months ended June 25, 2017 and June 26, 2016 was as follows (in millions):

	For the Six Months Ended	
	June 25, 2017	June 26, 2016
Shares outstanding at beginning of the period	73.9	59.1
Stock issued for cash	11.9	—
Stock issued for employee stock purchase plan, stock options and restricted stock units exercised	0.8	0.6
Shares outstanding at end of the period	86.6	59.7

#### Note 5. Net Loss Per Common Share

The Company calculates net loss per share in accordance with FASB Accounting Standards Codification Topic 260, *Earnings per Share* (“Topic 260”). Under Topic 260, basic net loss per common share is calculated by dividing net loss by the weighted-average number of common shares outstanding during the reporting period. Diluted net loss per common share reflects the effects of potentially dilutive securities.

Shares from stock options and awards, excluded from the calculation of diluted net loss per share because their inclusion would have been anti-dilutive, were 0.2 million and 0.2 million for the three and six months ended June 25, 2017, respectively, and 1.4 million and 1.7 million for the three and six months ended June 26, 2016, respectively.

#### Note 6. Income Taxes

The reconciliation of the income tax benefit from continuing operations computed by applying the statutory federal income tax rate of 35% to loss from continuing operations before income taxes to the income tax provision for the three and six months ended June 25, 2017 and June 26, 2016 was as follows (in millions):

	For the Three Months Ended		For the Six Months Ended	
	June 25, 2017	June 26, 2016	June 25, 2017	June 26, 2016
Income tax benefit at federal statutory rate	\$ (1.5)	\$ (3.0)	\$ (4.5)	\$ (9.5)
State and foreign taxes, net of federal tax benefit and valuation allowance	0.3	1.0	0.5	1.4
Nondeductible expenses and other	0.6	0.3	1.0	0.7
Impact of deferred tax liabilities for indefinite-lived assets	1.5	0.8	2.7	2.3
Increase in reserves for uncertain tax positions	—	—	0.1	1.7
Increase in federal valuation allowance	0.9	2.7	3.5	8.8
Total income tax provision	\$ 1.8	\$ 1.8	\$ 3.3	\$ 5.4

In assessing the Company’s ability to realize deferred tax assets, management considers, on a periodic basis, whether it is more likely than not that some portion or all of the deferred tax assets will not be realized. As such, management has determined that it is appropriate to maintain a full valuation allowance against the Company’s U.S. federal, combined state and certain foreign deferred tax assets, with the exception of an amount equal to its deferred tax liabilities, which can be expected to reverse over a definite life.

Federal and state income tax laws impose restrictions on the utilization of net operating losses (“NOLs”) and tax credit carryforwards in the event that an “ownership change” occurs for tax purposes, as defined by Section 382 of the Internal Revenue Code of 1986, as amended (“Section 382”). In general, an ownership change occurs when shareholders owning 5% or more of a “loss corporation” (a corporation entitled to use NOLs or other loss carryovers) have increased their ownership of stock in such corporation by more than 50 percentage points during any three-year period. The annual base Section 382 limitation is calculated by multiplying the loss corporation’s value at the time of the ownership change by the greater of the long-term tax-exempt rate determined by the Internal Revenue Service in the month of the ownership change or the two

preceding months. This base limitation is subject to adjustments, including an increase for built-in gains recognized in the five-year period after the ownership change.

In March 2010, an “ownership change” occurred that will limit the utilization of NOL carryforwards. In July 2011, another “ownership change” occurred. The March 2010 ownership change limitation is more restrictive. In prior years, the Company acquired corporations with NOL carryforwards at the date of acquisition (“Acquired NOLs”). The Acquired NOLs are subject to separate limitations that may further restrict the use of Acquired NOLs. As a result, the Company’s federal annual utilization of NOL carryforwards was limited to \$27.0 million a year for the five years succeeding the March 2010 ownership change and \$11.6 million for each year thereafter subject to separate limitations for Acquired NOLs. If the entire limitation amount is not utilized in a year, the excess can be carried forward and utilized in future years.

For the six months ended June 25, 2017, such limitations did not impact the income tax provision, since the amount of taxable income did not exceed the annual limitation amount. However, future equity offerings or acquisitions that have equity as a component of the purchase price could also cause an “ownership change.” If and when any other “ownership change” occurs, utilization of the NOLs or other tax attributes may be further limited.

As discussed elsewhere, deferred tax assets relating to the NOLs and credit carryforwards are offset by a full valuation allowance. In addition, utilization of state tax loss carryforwards is dependent upon sufficient taxable income apportioned to the states.

The Company is subject to taxation in the U.S. and various state and foreign tax jurisdictions. The Company’s tax years for 2000 and later are subject to examination by the U.S. and state tax authorities due to the existence of the NOL carryforwards. Generally, the Company’s tax years for 2002 and later are subject to examination by various foreign tax authorities as well.

As of December 25, 2016, the Company had \$18.6 million of unrecognized tax benefits that, if recognized, would impact the effective income tax rate, subject to possible offset by an increase in the deferred tax asset valuation allowance. During the six months ended June 25, 2017, unrecognized tax benefits decreased by \$0.2 million relating to various current year and prior positions.

The Company recognizes interest and penalties related to unrecognized tax benefits in its provision for income taxes. For the six months ended June 25, 2017 and June 26, 2016, a \$0.2 million expense and \$0.7 million expense, respectively, were recorded related to interest and penalties related to unrecognized tax benefits. For the six months ended June 25, 2017 and June 26, 2016, there was no material benefit recorded related to the removal of interest and penalties. The Company believes that it is reasonably possible that as much as \$1.0 million of the liabilities for uncertain tax positions will expire within twelve months of June 25, 2017 due to the expiration of various applicable statutes of limitation.

## **Note 7. Debt**

### **(a) Issuance of 7.00% Senior Secured Notes due 2019**

In May 2014, the Company refinanced its \$625.0 million of 10% Senior Secured Notes due in 2017 (the “10% Notes”) with \$625.0 million of newly issued 7.00% Senior Secured Notes due in 2019 (the “7% Notes”). The net proceeds from the issuance of the 7% Notes was \$618.5 million after an original issue discount of \$6.5 million. The Company incurred debt issuance costs of \$8.8 million associated with the 7% Notes. The Company utilized the net proceeds from the issuance of the 7% Notes, a \$41.0 million draw on its Credit Agreement (as defined below), as well as cash from operations to extinguish the 10% Notes. The total reacquisition price of the 10% Notes was \$661.5 million including a \$31.2 million early termination fee, the write-off of \$15.5 million of unamortized issue costs, \$12.9 million of unamortized premium, along with \$5.3 million of additional interest while in escrow, which resulted in a loss on extinguishment of debt of \$39.1 million.

The Company completed the offering of the 7% Notes in a private placement conducted pursuant to Rule 144A and Regulation S under the Securities Act of 1933, as amended (the “Act”). On October 16, 2014, the Company exchanged the outstanding 7% Notes for an equal amount of new 7.00% Senior Secured Notes due in 2019 (the “Notes”) that had been registered under the Act. The terms of the Notes issued in the exchange offer were identical in all material respects to the terms of the 7% Notes, except the Notes issued in the exchange offer had been registered under the Act.

The Notes are governed by an Indenture, dated May 14, 2014 (the “Indenture”), among the Company, certain of the Company’s subsidiaries (the “Subsidiary Guarantors”) and Wilmington Trust, National Association, as Trustee and Collateral

Agent. A Subsidiary Guarantor can be released from its Guarantee (as defined in the Indenture) (a) if all of the capital stock issued by such Subsidiary Guarantor or all or substantially all of the assets of such Subsidiary Guarantor are sold or otherwise disposed of; (b) if the Company designates such Subsidiary Guarantor as an Unrestricted Subsidiary (as defined in the Indenture); (c) if the Company exercises its legal defeasance option or its covenant defeasance option; or (d) upon satisfaction and discharge of the Indenture or payment in full in cash of the principal of, premium, if any, and accrued and unpaid interest on the Notes.

The holders of the Notes have a first priority lien on substantially all of the Company's assets and the assets of the Subsidiary Guarantors, except with respect to accounts receivable, inventory, deposit accounts, securities accounts, cash, securities and general intangibles (other than intellectual property), on which the holders of the Notes have a second priority lien to the \$110.0 million Credit Agreement.

The Company pays interest on the Notes semi-annually, in arrears, on May 15 and November 15 of each year.

The Notes include customary covenants and events of default as well as a consolidated fixed charge ratio of 2.0:1 for the incurrence of additional indebtedness. Negative covenants include, among other things, limitations on additional debt, liens, negative pledges, investments, dividends, stock repurchases, asset sales and affiliate transactions. Events of default include, among other events, non-performance of covenants, breach of representations, cross-default to other material debt, bankruptcy, insolvency, material judgments and changes in control. As of June 25, 2017, the Company was in compliance with the covenants contained in the Indenture governing the Notes.

The Company may redeem some or all of the Notes at 102.625% of the aggregate principal amount of such Notes if redeemed on or before May 15, 2018 and 100% of the aggregate principal amount of such Notes if redeemed on or after May 16, 2018, plus accrued and unpaid interest to the date of redemption.

The terms of the Indenture require that the net cash proceeds from asset dispositions be utilized to (i) repay or prepay amounts outstanding under the Credit Agreement unless such amounts are reinvested in similar collateral, (ii) make an investment in assets that replace the collateral of the Notes or (iii) a combination of both clauses (i) and (ii). To the extent there are any remaining net proceeds from the asset disposition after application of clauses (i) and (ii), such amounts are required to be utilized to repurchase Notes at par after 360 days following the asset disposition.

Following the sale of its U.S. and U.K. Electronic Products Divisions (the "Herley Entities") the Company paid down \$41.0 million outstanding under the Credit Agreement and repurchased \$175.0 million of the Notes at par, in accordance with the terms of the Indenture. The total reacquisition price of the Notes was \$178.4 million including the write off of \$1.8 million of unamortized issue costs, \$1.4 million of unamortized discount, along with \$0.2 million of legal fees, which resulted in a loss on extinguishment of debt of \$3.4 million.

The Company reinvested all net proceeds remaining after the repurchase of the \$175.0 million of Notes in replacement collateral in accordance with the terms of the Indenture within 360 days following the asset disposition, in accordance with the terms of the Indenture.

During the quarter ended December 25, 2016, the Company repurchased and extinguished \$14.5 million of the outstanding Notes, which resulted in a gain of \$0.4 million offset by \$0.1 million of unamortized issuance cost and \$0.1 million of unamortized discount resulting in a gain on extinguishment of debt of \$0.2 million.

During the quarter ended March 26, 2017, the Company repurchased and extinguished \$62.7 million of the outstanding Notes, which resulted in a loss of \$1.4 million and the realization of \$0.4 million of unamortized issuance cost and \$0.3 million of unamortized discount resulting in a loss on extinguishment of debt of \$2.1 million.

As of June 25, 2017, there was \$372.8 million in Notes outstanding.

## **(b) Other Indebtedness**

### *\$110.0 Million Credit Agreement*

On May 14, 2014, the Company entered into a \$110.0 million Credit and Security Agreement, dated May 14, 2014 (the "Credit Agreement"), with the lenders from time to time party thereto, SunTrust Bank, as Agent (the "Agent"), PNC Bank, National Association, as Joint Lead Arranger and Documentation Agent, and SunTrust Robinson Humphrey, Inc., as Joint Lead Arranger and Sole Book Runner. The Credit Agreement established a five-year senior secured revolving credit facility in the

maximum amount of \$110.0 million (subject to a potential increase of the maximum principal amount to \$135.0 million, subject to the Agent's and applicable lenders' approval as described therein), consisting of a subline for letters of credit in an amount not to exceed \$50.0 million, as well as a swingline loan in an aggregate principal amount at any time outstanding not to exceed \$10.0 million. The obligations under the Credit Agreement are secured by (i) a first priority lien on the Company's accounts receivable, inventory, deposit accounts, securities accounts, cash, securities and general intangibles (other than intellectual property) and (ii) a second priority lien, junior to the lien securing the Notes, on all of the Company's other assets.

The Credit Agreement contains certain covenants, which include, but are not limited to, restrictions on indebtedness, liens, and investments, and limits on other various payments, as well as a financial covenant relating to a minimum fixed charge coverage ratio of 1.15:1 (as modified per the Third Amendment and the Fourth Amendment, as defined and discussed below). Events of default under the terms of the Credit Agreement include, but are not limited to: failure of the Company to pay any principal of any loans in full when due and payable; failure of the Company to pay any interest on any loan or any fee or other amount payable under the Credit Agreement within three business days after the date when due and payable; failure of the Company or any of its subsidiaries to comply with certain covenants and agreements, subject to applicable grace periods and/or notice requirements; any representation, warranty or statement made in or pursuant to the Credit Agreement or any related writing or any other material information furnished by the Company or any of its subsidiaries to the Agent or the lenders proving to be false or erroneous; and the occurrence of an event or condition having or reasonably likely to have a material adverse effect, which includes a material adverse effect on the business, operations, condition (financial or otherwise) or prospects of the Company or the ability of the Company to repay its obligations. Where an event of default arises from certain bankruptcy events, the commitments will automatically and immediately terminate and the principal of, and interest then outstanding on, all of the loans will become immediately due and payable. Subject to certain notice requirements and other conditions, upon the occurrence of an event of default, including the occurrence of a condition having or reasonably likely to have a material adverse effect, commitments may be terminated and the principal of, and interest then outstanding on, all of the loans may become immediately due and payable. At June 25, 2017, no event of default had occurred and the Company believes that events or conditions having a material adverse effect, giving rise to an acceleration of any amounts outstanding under the Credit Agreement, have not occurred and the likelihood of such events or conditions occurring is remote.

Borrowings under the Credit Agreement may take the form of a base rate revolving loan, Eurodollar revolving loan or swingline loan. Base rate revolving loans and swingline loans will bear interest at a rate per annum equal to the sum of the applicable margin from time to time in effect plus the highest of (i) the Agent's prime lending rate, as in effect at such time, (ii) the federal funds rate, as in effect at such time, plus 0.50% per annum, and (iii) the adjusted London Interbank Offered Rate ("LIBOR") determined at such time for an interest period of one month, plus 1.00% per annum. Eurodollar revolving loans will bear interest at a rate per annum equal to the sum of the applicable margin from time to time in effect plus the adjusted LIBOR. The applicable margin varies between 1.50% and 2.00% for base rate revolving loans and swingline loans and 2.50% and 3.00% for Eurodollar loans, and is based on several factors including the Company's then-existing borrowing base and the lender's total commitment amount and revolving credit exposure. The calculation of the Company's borrowing base takes into account several items relating to the Company and its subsidiaries, including, without limitation, amounts due and owing under billed and unbilled accounts receivables, then-held eligible raw materials inventory, work-in-process inventory, and applicable reserves.

On May 31, 2015, the Company entered into a third amendment (the "Third Amendment") to the Credit Agreement. Under the terms of the Third Amendment, the definitions of certain terms of the Credit Agreement were modified, the disposition of the Herley Entities was approved by the lenders, a minimum \$175.0 million repurchase of the Notes by the Company was required and the payment in full of the outstanding balance of the Credit Agreement was required. Additionally, the measurement of the fixed charge coverage ratio of 1.15:1 was modified as follows: (i) the fixed charge coverage ratio will not be measured as of the end of any quarterly reporting period ending after June 30, 2015, if on such date (a) there are no outstanding revolving loans or swingline loans and (b) the aggregate amount outstanding under letters of credit is less than or equal to \$17.0 million, and (ii) as to any subsequent quarterly reporting period ending after June 30, 2015, and not covered by clause (i) above, a fixed charge coverage ratio of at least 1.05:1 must be maintained if the percentage of (a) outstanding revolving loans plus the sum of the outstanding swingline loans and outstanding letters of credit that are in excess of \$17.0 million, to (b) the revolving credit commitment, minus the Herley Disposition Proceeds Reinvestment Reserve (as defined below) is greater than 0.00% but less than 15.00% or a fixed charge coverage ratio of at least 1.10:1 must be maintained if the aforementioned percentage is equal to or greater than 15.00% but less than 25.00%. In all other instances, a fixed charge coverage ratio of at least 1.15:1 must be maintained. For purposes of computing the fixed charge coverage ratio, the associated reduction in consolidated interest expense in connection with the repurchase of Notes with proceeds from the sale of the Herley Entities shall be deemed to have occurred on the first day of the most recently completed four quarterly reporting periods prior to the sale.

The terms of the Third Amendment also included the establishment of a reserve (the "Herley Disposition Proceeds Reinvestment Reserve") that reduced the maximum \$110.0 million total borrowing base on the Credit Agreement. With the sale

of the Herley Entities, a \$50.8 million reserve was established based upon the collateral carrying value under the Credit Agreement of the Herley Entities disposed. The reserve and therefore the maximum borrowing base were adjusted monthly for the subsequent cumulative reinvestment in similar collateral assets over a period not to have exceeded 360 days from the date of sale of the Herley Entities. As of June 25, 2017, there was no reserve on the maximum borrowings, resulting from a cumulative reinvestment in similar collateral assets since the sale of the Herley Entities in excess of the \$50.8 million reserve established at the date of the sale of the Herley Entities. The Company made investments in assets that replaced the collateral, which reinstated the maximum facility to the full \$110.0 million as of the end of the first quarter of 2016.

On August 20, 2015, the Company entered into a fourth amendment (the “Fourth Amendment”) to the Credit Agreement. Among other things, the Fourth Amendment provides for a modification of the Third Amendment as it relates to when the minimum fixed charge coverage ratio will be measured based upon the Company’s outstanding borrowings. Outstanding borrowings for purposes of computing the applicable minimum fixed charge coverage ratio exclude any letter of credit exposure outstanding of \$17.0 million plus the amount of letters of credit outstanding for the divested Herley Entities for which a cash deposit has been placed in escrow by the buyer to cover the amount of such outstanding letters of credit, should the letters of credit be pulled.

As of June 25, 2017, there were no borrowings outstanding on the Credit Agreement and \$10.1 million outstanding on letters of credit, resulting in net borrowing base availability of \$72.4 million. The Company was in compliance with the financial covenants of the Credit Agreement and its amendments as of June 25, 2017.

*Debt Acquired in Acquisition*

The Company has a \$10.0 million ten-year term loan with a bank in Israel entered into on September 16, 2008 in connection with the acquisition of one of its wholly owned subsidiaries. The balance under the term loan as of June 25, 2017 was \$1.3 million, and the loan is payable in quarterly installments of \$0.3 million plus interest at LIBOR plus a margin of 1.5%. The loan agreement governing the term loan contains various covenants, including a minimum net equity covenant as defined in the loan agreement. The Company was in compliance with all covenants contained in this loan agreement as of June 25, 2017.

*Fair Value of Long-term Debt*

Carrying amounts and the related estimated fair values of the Company’s long-term debt financial instruments not measured at fair value on a recurring basis at June 25, 2017 and December 25, 2016 are presented in the following table:

<b>\$ in millions</b>	<b>As of June 25, 2017</b>			<b>As of December 25, 2016</b>		
	<b>Principal</b>	<b>Carrying Amount</b>	<b>Fair Value</b>	<b>Principal</b>	<b>Carrying Amount</b>	<b>Fair Value</b>
Total long-term debt including current portion	\$ 374.1	\$ 370.5	\$ 382.0	\$ 437.3	\$ 432.0	\$ 423.6

The fair value of the Company’s long-term debt was based upon actual trading activity (Level 1, Observable inputs -quoted prices in active markets).

As of June 25, 2017, the difference between the carrying amount of \$370.5 million and the principal amount of \$374.1 million presented in the table above is the net unamortized original issue discount of \$1.6 million and the unamortized debt issuance costs of \$2.0 million, which are being accreted to interest expense over the term of the related debt. As of December 25, 2016, the difference between the carrying amount of \$432.0 million and the principal amount of \$437.3 million presented in the previous table is the net unamortized original issue discount of \$2.4 million and the unamortized debt issuance costs of \$2.9 million, which are being accreted to interest expense over the term of the related debt.

**Note 8. Segment Information**

The Company operates in three reportable segments. The Kratos Government Solutions (“KGS”) reportable segment is comprised of an aggregation of KGS operating segments, including the microwave electronic products, satellite communications, modular systems and defense and rocket support operating segments. The Unmanned Systems (“US”) reportable segment consists of its unmanned aerial system and unmanned ground and seaborne system businesses. The KGS and US segments provide products, solutions and services for mission critical national security programs. KGS and US customers primarily include national security related agencies, the U.S. Department of Defense (the “DoD”), intelligence agencies and classified agencies, and to a lesser degree, international government agencies and domestic and international

commercial customers. The Public Safety & Security (“PSS”) reportable segment provides independent integrated solutions for advanced homeland security, public safety, critical infrastructure, and security and surveillance systems for government and commercial applications. PSS customers include those in the critical infrastructure, power generation, power transport, nuclear energy, financial, IT, healthcare, education, transportation and petro-chemical industries, as well as certain government customers.

The Company organizes its reportable segments based on the nature of the products, solutions and services offered. Transactions between segments are generally negotiated and accounted for under terms and conditions similar to other government and commercial contracts. This presentation is consistent with the Company’s operating structure. In the following table, total operating income (loss) from continuing operations of the reportable business segments is reconciled to the corresponding consolidated amount. The reconciling item “unallocated corporate expense, net” includes costs for certain stock-based compensation programs (including stock-based compensation costs for stock options, employee stock purchase plan and restricted stock units), the effects of items not considered part of management’s evaluation of segment operating performance, merger and acquisition expenses, corporate costs not allocated to the segments, and other miscellaneous corporate activities.

During the six months ended June 26, 2016, the PSS reportable segment recorded a \$1.9 million charge related to a litigation settlement of a contract dispute and the KGS reportable segment recorded a \$7.7 million charge as a result of the decision to close one of its manufacturing facilities and exit certain lower margin product business lines associated with the Company’s modular systems business.

Revenues, depreciation and amortization, and operating income (loss) generated by the Company’s reportable segments for the three and six month periods ended June 25, 2017 and June 26, 2016 are as follows (in millions):

	Three Months Ended		Six Months Ended	
	June 25, 2017	June 26, 2016	June 25, 2017	June 26, 2016
<b>Revenues:</b>				
Kratos Government Solutions				
Service revenues	\$ 53.7	\$ 57.8	\$ 101.9	\$ 110.2
Product sales	71.9	62.2	139.1	118.4
Total Kratos Government Solutions	125.6	120.0	241.0	228.6
Public Safety & Security				
Service revenues	37.9	30.4	74.7	60.6
Product sales	—	—	—	—
Total Public Safety & Security	37.9	30.4	74.7	60.6
Unmanned Systems				
Service revenues	—	—	—	—
Product sales	22.2	17.8	37.8	32.0
Total Unmanned Systems	22.2	17.8	37.8	32.0
Total revenues	\$ 185.7	\$ 168.2	\$ 353.5	\$ 321.2
<b>Depreciation &amp; amortization:</b>				
Kratos Government Solutions	\$ 3.5	\$ 3.6	\$ 7.2	\$ 7.7
Public Safety & Security	0.1	0.2	0.2	0.3
Unmanned Systems	1.8	1.8	3.6	3.7
Total depreciation and amortization	\$ 5.4	\$ 5.6	\$ 11.0	\$ 11.7
<b>Operating income (loss) from continuing operations:</b>				
Kratos Government Solutions	\$ 5.7	\$ 4.5	\$ 15.3	\$ 2.7
Public Safety & Security	0.5	0.2	0.3	(2.5)
Unmanned Systems	(1.8)	(3.0)	(6.8)	(7.2)
Unallocated corporate expense, net	(1.8)	(1.7)	(4.5)	(3.2)
Total operating income (loss) from continuing operations	\$ 2.6	\$ —	\$ 4.3	\$ (10.2)

## **Note 9. Significant Customers**

Revenue from the U.S. Government, which includes foreign military sales, includes revenue from contracts for which the Company is the prime contractor as well as those for which the Company is a subcontractor and the ultimate customer is the U.S. Government. The KGS and US segments have substantial revenue from the U.S. Government. Sales to the U.S. Government amounted to approximately \$111.4 million and \$102.9 million, or 60% and 61% of total revenue, for the three months ended June 25, 2017 and June 26, 2016, respectively, and \$207.7 million and \$198.2 million, or 59% and 62% of total revenue, for the six months ended June 25, 2017 and June 26, 2016, respectively.

## **Note 10. Commitments and Contingencies**

In addition to commitments and obligations in the ordinary course of business, the Company is subject to various claims, pending and potential legal actions for damages, investigations relating to governmental laws and regulations and other matters arising out of the normal conduct of the Company's business. The Company assesses contingencies to determine the degree of probability and range of possible loss for potential accrual in its condensed consolidated financial statements. An estimated loss contingency is accrued in the Company's condensed consolidated financial statements if it is probable that a liability has been incurred and the amount of the loss can be reasonably estimated. Because litigation is inherently unpredictable and unfavorable resolutions could occur, assessing litigation contingencies is highly subjective and requires judgments about future events. When evaluating contingencies, the Company may be unable to provide a meaningful estimate due to a number of factors, including but not limited to the procedural status of the matter in question, the presence of complex or novel legal theories, and the ongoing discovery and development of information important to the matters. In addition, damage amounts claimed in litigation against it may be unsupported, exaggerated or unrelated to possible outcomes and, as such, are not meaningful indicators of its potential liability. The Company regularly reviews contingencies to determine the adequacy of its accruals and related disclosures. The amount of ultimate loss may differ from these estimates. It is possible that cash flows or results of operations could be materially affected in any particular period by the unfavorable resolution of one or more of these contingencies. Whether any losses finally determined in any claim, action, investigation or proceeding could reasonably have a material effect on the Company's business, financial condition, results of operations or cash flows will depend on a number of variables, including the timing and amount of such losses; the structure and type of any remedies; the monetary significance any such losses, damages or remedies may have on the Company's condensed consolidated financial statements; and the unique facts and circumstances of the particular matter that may give rise to additional factors.

### **Legal and Regulatory Matters**

#### *U.S. Government Cost Claims.*

The Company's contracts with the DoD are subject to audit by the Defense Contract Audit Agency ("DCAA"). As a result of these audits, from time to time the Company is advised of claims concerning potential disallowed, overstated or disputed costs. For example, during the course of recent audits of the Company's contracts, the DCAA is closely examining and questioning certain of the established and disclosed practices that it had previously audited and accepted. The Company's personnel regularly scrutinizes costs incurred and allocated to contracts with the U.S. Government for compliance with regulatory standards. On July 28, 2015, the Company received a determination letter from the Defense Contract Management Agency ("DCMA") regarding what the DCMA believed were certain unallowable costs for one of the Company's subsidiaries with respect to fiscal year 2007. In April 2016, the Company reached an agreement with the DCAA to settle matters related to unallowable costs for this subsidiary for fiscal years 2007 and 2008 for approximately \$0.2 million. For those Company subsidiaries and fiscal years which have not yet been audited by the DCAA or for those audits which are in process which have not been completed by the DCAA, the Company cannot reasonably estimate the range of loss, if any, that may result from audits and reviews in which it is currently involved given the inherent difficulty in predicting regulatory action, fines and penalties, if any, and the various remedies and levels of judicial review available to the Company in the event of an adverse finding. As a result, the Company has not recorded any liability related to these matters.

#### *Other Litigation Matters.*

The Company is subject to normal and routine litigation arising from the ordinary course and conduct of business and, at times, as a result of acquisitions and dispositions. Such disputes include, for example, commercial, employment, intellectual property, environmental and securities matters. The aggregate amounts accrued related to these matters are not material to the total liabilities of the Company. The Company intends to defend itself in any such matters and does not currently believe that the outcome of any such matters will have a material adverse impact on the Company's financial condition, results of

operations or cash flows. In the first quarter of fiscal 2016, the Company recorded a charge of \$1.9 million related to a litigation settlement of a contract dispute in the PSS segment.

**Note 11. Condensed Consolidating Financial Statements**

The Company has \$372.8 million in outstanding Notes (see Note 7). The Notes are guaranteed by the Subsidiary Guarantors and are collateralized by the assets of all of the Company's 100% owned subsidiaries. The Notes are fully and unconditionally guaranteed on a joint and several basis by each Subsidiary Guarantor and the Company. There are no contractual restrictions with respect to the Notes limiting cash transfers from Subsidiary Guarantors by dividends, loans or advances to the Company. The Notes are not guaranteed by the Company's foreign subsidiaries (the "Non-Guarantor Subsidiaries").

The following tables present condensed consolidating financial statements for the parent company, the Subsidiary Guarantors and the Non-Guarantor Subsidiaries, respectively. The condensed consolidating financial information below follows the same accounting policies as described in the condensed consolidated financial statements, except for the use of the equity method of accounting to reflect ownership interests in 100% owned subsidiaries, which are eliminated upon consolidation.

**Condensed Consolidating Balance Sheet**  
**June 25, 2017**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
<b>Assets</b>					
Current Assets:					
Cash and cash equivalents	\$ 59.6	\$ (1.7)	\$ 5.4	\$ —	\$ 63.3
Accounts receivable, net	—	197.0	29.6	—	226.6
Amounts due from affiliated companies	215.8	—	—	(215.8)	—
Inventoried costs	—	43.1	18.4	—	61.5
Other current assets	3.6	14.2	4.6	—	22.4
Total current assets	279.0	252.6	58.0	(215.8)	373.8
Property, plant and equipment, net	1.4	47.4	6.2	—	55.0
Goodwill	—	442.6	42.8	—	485.4
Intangible assets, net	—	20.1	7.2	—	27.3
Investment in subsidiaries	463.1	66.7	—	(529.8)	—
Other assets	0.4	8.1	—	—	8.5
Total assets	\$ 743.9	\$ 837.5	\$ 114.2	\$ (745.6)	\$ 950.0
<b>Liabilities and Stockholders' Equity</b>					
Current liabilities:					
Accounts payable	\$ 3.1	\$ 45.5	\$ 7.2	\$ —	\$ 55.8
Accrued expenses	4.4	41.0	2.7	—	48.1
Accrued compensation	4.2	27.1	4.3	—	35.6
Billings in excess of costs and earnings on uncompleted contracts	—	36.0	4.3	—	40.3
Amounts due to affiliated companies	—	187.2	28.6	(215.8)	—
Other current liabilities	0.4	4.1	1.6	—	6.1
Current liabilities of discontinued operations	1.1	—	0.1	—	1.2
Total current liabilities	13.2	340.9	48.8	(215.8)	187.1
Long-term debt, net of current portion	369.2	—	0.3	—	369.5
Other long-term liabilities	10.7	21.5	10.4	—	42.6
Non-current liabilities of discontinued operations	3.8	—	—	—	3.8
Total liabilities	396.9	362.4	59.5	(215.8)	603.0
Total stockholders' equity	347.0	475.1	54.7	(529.8)	347.0
Total liabilities and stockholders' equity	\$ 743.9	\$ 837.5	\$ 114.2	\$ (745.6)	\$ 950.0

**Condensed Consolidating Balance Sheet**  
**December 25, 2016**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
<b>Assets</b>					
Current Assets:					
Cash and cash equivalents	\$ 67.2	\$ (3.3)	\$ 5.2	\$ —	\$ 69.1
Accounts receivable, net	—	197.9	31.5	—	229.4
Amounts due from affiliated companies	204.6	—	—	(204.6)	—
Inventoried costs	—	37.2	18.2	—	55.4
Other current assets	6.3	11.6	1.3	—	19.2
Total current assets	278.1	243.4	56.2	(204.6)	373.1
Property, plant and equipment, net	1.6	41.7	6.5	—	49.8
Goodwill	—	442.5	42.9	—	485.4
Intangible assets, net	—	24.5	8.1	—	32.6
Investment in subsidiaries	458.0	67.5	—	(525.5)	—
Other assets	0.4	7.3	—	—	7.7
Total assets	\$ 738.1	\$ 826.9	\$ 113.7	\$ (730.1)	\$ 948.6
<b>Liabilities and Stockholders' Equity</b>					
Current liabilities:					
Accounts payable	\$ 4.5	\$ 43.7	\$ 4.5	\$ —	\$ 52.7
Accrued expenses	5.6	44.5	3.5	—	53.6
Accrued compensation	4.0	31.2	3.9	—	39.1
Billings in excess of costs and earnings on uncompleted contracts	—	38.9	2.9	—	41.8
Amounts due to affiliated companies	—	174.6	30.0	(204.6)	—
Other current liabilities	1.4	4.1	2.2	—	7.7
Current liabilities of discontinued operations	1.5	—	0.1	—	1.6
Total current liabilities	17.0	337.0	47.1	(204.6)	196.5
Long-term debt, net of current portion	430.2	—	0.8	—	431.0
Other long-term liabilities	10.8	19.9	10.3	—	41.0
Non-current liabilities of discontinued operations	3.7	—	—	—	3.7
Total liabilities	461.7	356.9	58.2	(204.6)	672.2
Total stockholders' equity	276.4	470.0	55.5	(525.5)	276.4
Total liabilities and stockholders' equity	\$ 738.1	\$ 826.9	\$ 113.7	\$ (730.1)	\$ 948.6

**Condensed Consolidating Statement of Operations and Comprehensive Income (Loss)**  
**Three Months Ended June 25, 2017**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
Service revenues	\$ —	\$ 86.3	\$ 5.3	\$ —	\$ 91.6
Product sales	—	84.0	13.1	(3.0)	94.1
Total revenues	—	170.3	18.4	(3.0)	185.7
Cost of service revenues	—	62.7	4.3	—	67.0
Cost of product sales	—	63.0	11.3	(3.0)	71.3
Total costs	—	125.7	15.6	(3.0)	138.3
Gross profit	—	44.6	2.8	—	47.4
Selling, general and administrative expenses	1.4	36.3	3.0	—	40.7
Research and development expenses	—	3.7	0.4	—	4.1
Operating income (loss) from continuing operations	(1.4)	4.6	(0.6)	—	2.6
Other income (expense):					
Interest income (expense), net	(7.3)	0.1	—	—	(7.2)
Other income (expense), net	—	0.1	0.1	—	0.2
Total other income (expense), net	(7.3)	0.2	0.1	—	(7.0)
Income (loss) from continuing operations before income taxes	(8.7)	4.8	(0.5)	—	(4.4)
Provision for income taxes from continuing operations	—	1.8	—	—	1.8
Income (loss) from continuing operations	(8.7)	3.0	(0.5)	—	(6.2)
Equity in net income (loss) of subsidiaries	2.5	(0.5)	—	(2.0)	—
Net income (loss)	\$ (6.2)	\$ 2.5	\$ (0.5)	\$ (2.0)	\$ (6.2)
Comprehensive income (loss)	\$ (6.2)	\$ 2.5	\$ (0.5)	\$ (2.0)	\$ (6.2)

**Condensed Consolidating Statement of Operations and Comprehensive Income (Loss)**  
**Three Months Ended June 26, 2016**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
Service revenues	\$ —	\$ 82.3	\$ 5.9	\$ —	\$ 88.2
Product sales	—	69.0	12.9	(1.9)	80.0
Total revenues	—	151.3	18.8	(1.9)	168.2
Cost of service revenues	—	60.0	4.4	—	64.4
Cost of product sales	—	50.2	10.3	(1.9)	58.6
Total costs	—	110.2	14.7	(1.9)	123.0
Gross profit	—	41.1	4.1	—	45.2
Selling, general and administrative expenses	2.5	36.2	2.5	—	41.2
Research and development expenses	—	3.9	0.1	—	4.0
Operating income (loss) from continuing operations	(2.5)	1.0	1.5	—	—
Other income (expense):					
Interest expense, net	(8.7)	—	—	—	(8.7)
Other income (expense), net	—	(0.2)	0.4	—	0.2
Total other income (expense), net	(8.7)	(0.2)	0.4	—	(8.5)
Income (loss) from continuing operations before income taxes	(11.2)	0.8	1.9	—	(8.5)
Provision for income taxes from continuing operations	—	1.5	0.3	—	1.8
Income (loss) from continuing operations	(11.2)	(0.7)	1.6	—	(10.3)
Loss from discontinued operations	(0.1)	—	—	—	(0.1)
Equity in net income (loss) of subsidiaries	0.9	1.6	—	(2.5)	—
Net income (loss)	\$ (10.4)	\$ 0.9	\$ 1.6	\$ (2.5)	\$ (10.4)
Comprehensive income (loss)	\$ (10.5)	\$ 0.9	\$ 1.5	\$ (2.4)	\$ (10.5)

**Condensed Consolidating Statement of Operations and Comprehensive Income (Loss)**  
**Six Months Ended June 25, 2017**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
Service revenues	\$ —	\$ 168.7	\$ 7.9	\$ —	\$ 176.6
Product sales	—	157.3	25.8	(6.2)	176.9
Total revenues	—	326.0	33.7	(6.2)	353.5
Cost of service revenues	—	122.6	6.2	—	128.8
Cost of product sales	—	117.0	21.4	(6.2)	132.2
Total costs	—	239.6	27.6	(6.2)	261.0
Gross profit	—	86.4	6.1	—	92.5
Selling, general and administrative expenses	3.5	70.1	6.1	—	79.7
Research and development expenses	—	7.7	0.8	—	8.5
Operating income (loss) from continuing operations	(3.5)	8.6	(0.8)	—	4.3
Other income (expense):					
Interest income (expense), net	(15.5)	0.1	—	—	(15.4)
Loss on extinguishment of debt	(2.1)	—	—	—	(2.1)
Other income (expense), net	—	0.1	0.3	—	0.4
Total other income (expense), net	(17.6)	0.2	0.3	—	(17.1)
Income (loss) from continuing operations before income taxes	(21.1)	8.8	(0.5)	—	(12.8)
Provision for income taxes from continuing operations	0.1	2.9	0.3	—	3.3
Income (loss) from continuing operations	(21.2)	5.9	(0.8)	—	(16.1)
Loss from discontinued operations	(0.1)	—	—	—	(0.1)
Equity in net income (loss) of subsidiaries	5.1	(0.8)	—	(4.3)	—
Net income (loss)	\$ (16.2)	\$ 5.1	\$ (0.8)	\$ (4.3)	\$ (16.2)
Comprehensive income (loss)	\$ (16.1)	\$ 5.1	\$ (0.7)	\$ (4.4)	\$ (16.1)

**Condensed Consolidating Statement of Operations and Comprehensive Income (Loss)**  
**Six Months Ended June 26, 2016**  
**(Unaudited)**  
**(in millions)**

	<b>Parent Company</b>	<b>Subsidiary Guarantors on a Combined Basis</b>	<b>Non-Guarantors on a Combined Basis</b>	<b>Eliminations</b>	<b>Consolidated</b>
Service revenues	\$ —	\$ 159.7	\$ 11.1	\$ —	\$ 170.8
Product sales	—	128.0	26.0	(3.6)	150.4
Total revenues	—	287.7	37.1	(3.6)	321.2
Cost of service revenues	—	116.7	8.0	—	124.7
Cost of product sales	—	98.2	20.8	(3.6)	115.4
Total costs	—	214.9	28.8	(3.6)	240.1
Gross profit	—	72.8	8.3	—	81.1
Selling, general and administrative expenses	3.8	75.8	4.8	—	84.4
Research and development expenses	—	6.8	0.1	—	6.9
Operating income (loss) from continuing operations	(3.8)	(9.8)	3.4	—	(10.2)
Other income (expense):					
Interest expense, net	(17.3)	(0.1)	—	—	(17.4)
Other income (expense), net	—	(0.2)	0.7	—	0.5
Total other income (expense), net	(17.3)	(0.3)	0.7	—	(16.9)
Income (loss) from continuing operations before income taxes	(21.1)	(10.1)	4.1	—	(27.1)
Provision for income taxes from continuing operations	0.1	4.7	0.6	—	5.4
Income (loss) from continuing operations	(21.2)	(14.8)	3.5	—	(32.5)
Loss from discontinued operations	(0.1)	—	—	—	(0.1)
Equity in net income (loss) of subsidiaries	(11.3)	3.5	—	7.8	—
Net income (loss)	\$ (32.6)	\$ (11.3)	\$ 3.5	\$ 7.8	\$ (32.6)
Comprehensive income (loss)	\$ (32.7)	\$ (11.3)	\$ 3.4	\$ 7.9	\$ (32.7)

**Condensed Consolidating Statement of Cash Flows**  
**Six Months Ended June 25, 2017**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
Net cash provided by (used in) operating activities from continuing operations	\$ (14.5)	\$ 2.1	\$ 1.1	\$ —	\$ (11.3)
Investing activities:					
Investment in affiliated companies	(10.9)	—	—	10.9	—
Change in restricted cash	—	0.2	—	—	0.2
Capital expenditures	(0.1)	(11.4)	(0.6)	—	(12.1)
Net cash provided by (used in) investing activities from continuing operations	(11.0)	(11.2)	(0.6)	10.9	(11.9)
Financing activities:					
Extinguishment of long-term debt	(64.0)	—	—	—	(64.0)
Repayment of debt	—	—	(0.5)	—	(0.5)
Proceeds from the issuance of common stock	81.7	—	—	—	81.7
Proceeds from the sale of employee stock purchase plan shares	0.6	—	—	—	0.6
Financings from affiliated companies	—	10.9	—	(10.9)	—
Net cash provided by (used in) financing activities from continuing operations	18.3	10.9	(0.5)	(10.9)	17.8
Net cash flows of continuing operations	(7.2)	1.8	—	—	(5.4)
Net operating cash flows from discontinued operations	—	(0.1)	—	—	(0.1)
Net investing cash flows from discontinued operations	(0.4)	—	—	—	(0.4)
Effect of exchange rate changes on cash and cash equivalents	—	—	0.1	—	0.1
Net increase (decrease) in cash and cash equivalents	\$ (7.6)	\$ 1.7	\$ 0.1	\$ —	\$ (5.8)

**Condensed Consolidating Statement of Cash Flows**  
**Six Months Ended June 26, 2016**  
**(Unaudited)**  
**(in millions)**

	Parent Company	Subsidiary Guarantors on a Combined Basis	Non-Guarantors on a Combined Basis	Eliminations	Consolidated
Net cash provided by (used in) operating activities from continuing operations	\$ (13.2)	\$ 1.5	\$ (0.7)	\$ —	\$ (12.4)
Investing activities:					
Investment in affiliated companies	(2.3)	—	—	2.3	—
Capital expenditures	(0.5)	(2.0)	(1.0)	—	(3.5)
Net cash provided by (used in) investing activities from continuing operations	(2.8)	(2.0)	(1.0)	2.3	(3.5)
Financing activities:					
Repayment of debt	—	—	(0.5)	—	(0.5)
Proceeds from the sale of employee stock purchase plan shares	1.0	—	—	—	1.0
Financing from affiliated companies	—	2.3	—	(2.3)	—
Net cash provided by (used in) financing activities from continuing operations	1.0	2.3	(0.5)	(2.3)	0.5
Net cash flows of continuing operations	(15.0)	1.8	(2.2)	—	(15.4)
Net operating cash flows from discontinued operations	0.2	(0.1)	—	—	0.1
Net investing cash flows from discontinued operations	4.5	—	—	—	4.5
Effect of exchange rate changes on cash and cash equivalents	—	—	(0.1)	—	(0.1)
Net increase (decrease) in cash and cash equivalents	\$ (10.3)	\$ 1.7	\$ (2.3)	\$ —	\$ (10.9)

## Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

*This Quarterly Report on Form 10-Q (this "Quarterly Report") contains "forward-looking statements" relating to our future financial performance, the market for our services and our expansion plans and opportunities. In some cases, you can identify forward-looking statements by terminology such as "may," "will," "should," "expect," "plan," "anticipate," "believe," "estimate," "predict," "potential," or "continue," the negative of such terms or other comparable terminology. These forward-looking statements reflect our current beliefs, expectations and projections, are based on assumptions, and are subject to known and unknown risks and uncertainties that could cause our actual results or achievements to differ materially from any future results or achievements expressed in or implied by our forward-looking statements. Many of these factors are beyond our ability to control or predict. As a result, you should not place undue reliance on forward-looking statements. Important risks and uncertainties that could cause our actual results or achievements to differ materially from the results or achievements reflected in our forward-looking statements include, but are not limited to: changes or cutbacks in spending or the appropriation of funding by the federal government, including the U.S. Department of Defense (the "DoD"), which could cause delays, cancellations or reductions of key government contracts; bid protests; changes in the scope or timing of our projects; the timing, rescheduling or cancellation of significant customer contracts and agreements, or consolidation by or the loss of key customers; risks of adverse regulatory action or litigation; risks associated with debt leverage and the refinancing of outstanding debt; failure to successfully achieve our integration, cost reduction or divestiture strategies; risks related to security breaches, cybersecurity attacks or other significant disruptions of our information systems; and competition in the marketplace, which could reduce revenues and profit margins, as well as the additional risks and uncertainties described in this Quarterly Report, in "Item 1A-Risk Factors" of our Annual Report on Form 10-K for the fiscal year ended December 25, 2016 filed with the U.S. Securities and Exchange Commission (the "SEC") on February 27, 2017 (the "Form 10-K"), and in other reports that we have filed with the SEC. These forward-looking statements reflect our views and assumptions only as of the date such forward-looking statements are made. Except as required by law, we assume no responsibility for updating any forward-looking statements, whether as a result of new information, future events or otherwise.*

*All references to "us," "we," "our," the "Company" and "Kratos" refer to Kratos Defense & Security Solutions, Inc., a Delaware corporation, and its wholly owned subsidiaries.*

### Overview

We are a mid-size government contractor at the forefront of the DoD's Third Offset Strategy. We are a leading technology, intellectual property and proprietary product and solutions company focused on the U.S. and its allies' national security. A key element of our business plan is to make Company-funded investments related to key platforms, products and systems, so that we own the related intellectual property. We are a demonstrated leader in rapidly designing, developing, demonstrating, and fielding leading technology products and systems at an affordable cost. We are the industry leader in high performance, jet powered, unmanned aerial drone target systems used to test weapon systems and to train the warfighter, and a provider of high performance unmanned combat aerial systems for force multiplication and amplification. We are also an industry leader in satellite communications, microwave electronics, cyber security/warfare, missile defense and combat and training systems. We have primarily an engineering and technically oriented work force of approximately 2,800 employees with a significant number holding national security clearances. Substantially all of our work is performed at customer locations, in a secure facility or at a critical infrastructure location. Our primary end customers are national security related agencies and homeland security related agencies. We believe that our technology, intellectual property, proprietary products and designed-in positions on our customers' platforms and systems gives us a competitive advantage and creates a high barrier to entry into our markets. Our entire organization is focused on executing our strategy of becoming the leading technology and intellectual property based company in our industry.

### Industry Update

Faced with significant budget pressures, in recent years the U.S. Government has implemented reductions in government spending, including reductions in appropriations for the DoD and other federal agencies, pursuant to the Budget Control Act of 2011 ("BCA"), as amended by the American Taxpayer Relief Act of 2012 and the Bipartisan Budget Act of 2013. Pursuant to the terms of the BCA, a sequestration went into effect in March 2013 resulting in a 7.8% reduction to the DoD budget for fiscal year (the period running from October 1st to September 30th, a "FY") 2013 to \$495.5 billion, excluding funding for military personnel. The DoD budget was approximately \$496.0 billion in FY 2014 and remained at a similar level in FY 2015. The DoD base budget excludes funding for Overseas Contingency Operations ("OCO"), such as those in Afghanistan, Iraq and Syria, which are appropriated separately and are not currently subject to the BCA.

On November 2, 2015, Barack Obama signed the Bipartisan Budget Act of 2015 (“BBA”), formalizing the terms of a two year budget agreement which raised the U.S. debt ceiling and lifted the sequestration spending caps by \$80.0 billion. Under the budget agreement, the total federal spending increase over the BCA topline funding caps was \$50.0 billion in FY 2016 and \$30.0 billion in FY 2017, with the amounts divided equally between defense and domestic priorities. The overall discretionary budget was set at \$1.067 trillion in FY 2016 and \$1.07 trillion in FY 2017. The FY 2016 discretionary defense budget was \$548.0 billion, a \$25.0 billion increase over the BCA topline funding caps.

Under the BBA, the Obama Administration received \$33.0 billion of the \$38.0 billion national defense spending increase it sought in FY 2016. In summary, the budget agreement:

- extended the BCA out to 2025;
- suspended the U.S. debt limit/ceiling until March 2017;
- increased spending caps for FY 2016 and FY 2017 by \$80.0 billion, including \$50.0 billion in FY 2016 and \$30.0 billion in FY 2017, split evenly between defense and domestic priorities; and
- included a FY 2016 DoD base budget of \$548.0 billion and a FY 2016 OCO budget of \$59.0 billion.

On December 18, 2015, Congress passed and Mr. Obama signed the Consolidated Appropriations Act of 2016, which provided funding for the U.S. Government for FY 2016, providing \$1.1 trillion in discretionary funding for federal agencies through September 2016. Mr. Obama signed a continuing resolution in September 2016, which was extended in December 2016, and provides funding for the U.S. Government at FY 2016 levels through April 28, 2017. On April 28, 2017, Congress passed a one-week stop gap funding bill through May 5, 2017. In May 2017, Congress passed the fiscal year 2017 Omnibus Appropriations Bill, which funds the U.S. Government through September 30, 2017. The bill provides funding of \$607 billion for the DoD, including a base budget of \$524 billion and OCO / Global War on Terror (“GWOT”) funding of \$83 billion. The fiscal year 2017 funding level for the DoD is approximately \$26 billion higher than the funding level for fiscal year 2016.

In March 2017, the debt ceiling was reached and the Treasury Department began taking “extraordinary measures” to finance the government. It is expected that in mid-to-late 2017 the U.S. Government will exhaust these available measures and Congress will need to raise the debt limit in order for the U.S. Government to continue borrowing money. If the debt ceiling is not raised, we may be required to continue to perform for some period of time on certain of our U.S. Government contracts even if the U.S. Government is unable to make timely payments.

In March 2017, President Trump submitted a budget proposal for fiscal year 2018 to Congress. The proposal includes funding of \$639 billion for the DoD, comprising a base budget of \$574 billion and OCO / GWOT funding of \$65 billion. The fiscal year 2018 funding level for the DoD is approximately \$52 billion above the spending limits established under the BCA and an increase of \$32 billion over the fiscal year 2017 funding level. Congress must approve or revise the President’s fiscal year 2018 budget proposals through enactment of appropriations bills and other policy legislation, which would then require final Presidential approval. It is unclear whether an annual appropriations bill will be enacted for FY 2018 at the levels proposed by the President and the government may once again at least begin its fiscal year operating under a continuing resolution.

## Reportable Segments

The Company operates in three reportable segments: The Kratos Government Solutions (“KGS”) reportable segment is comprised of an aggregation of KGS operating segments, including our microwave electronic products, satellite communications, modular systems and defense and rocket support services operating segments. The Unmanned Systems (“US”) reportable segment consists of our unmanned aerial system and unmanned ground and seaborne system businesses. The Public Safety & Security (“PSS”) reportable segment provides independent integrated solutions for advanced homeland security, public safety, critical infrastructure, and security and surveillance systems for government and commercial applications. We organize our business segments based primarily on the nature of the products, solutions and services offered. Transactions between segments are negotiated and accounted for under terms and conditions similar to other government and commercial contracts, and these intercompany transactions are eliminated in consolidation. For additional information regarding our reportable segments, see Note 8 of the Notes to Condensed Consolidated Financial Statements. From a customer and solutions perspective, we view our business as an integrated whole, leveraging skills and assets wherever possible.

**Key Financial Statement Concepts**

There have been no changes to our key financial statement concepts for the six months ended June 25, 2017. For a complete description of our business and a discussion of our critical accounting matters, please refer to Item 7, “Management’s Discussion and Analysis of Financial Condition and Results of Operations,” in the Form 10-K.

**Comparison of Results for the Three Months Ended June 25, 2017 to the Three Months Ended June 26, 2016**

*Revenues.* Revenues by operating segment for the three months ended June 25, 2017 and June 26, 2016 are as follows (dollars in millions):

	June 25, 2017	June 26, 2016	\$ change	% change
<b>Kratos Government Solutions</b>				
Service revenues	\$ 53.7	\$ 57.8	\$ (4.1)	(7.1)%
Product sales	71.9	62.2	9.7	15.6 %
Total Kratos Government Solutions	125.6	120.0	5.6	4.7 %
Public Safety & Security service revenues	37.9	30.4	7.5	24.7 %
Unmanned Systems product sales	22.2	17.8	4.4	24.7 %
<b>Total revenues</b>	<b>\$ 185.7</b>	<b>\$ 168.2</b>	<b>\$ 17.5</b>	
<b>Total service revenues</b>	<b>\$ 91.6</b>	<b>\$ 88.2</b>	<b>\$ 3.4</b>	<b>3.9 %</b>
<b>Total product sales</b>	<b>94.1</b>	<b>80.0</b>	<b>14.1</b>	<b>17.6 %</b>
<b>Total revenues</b>	<b>\$ 185.7</b>	<b>\$ 168.2</b>	<b>\$ 17.5</b>	<b>10.4 %</b>

Revenues increased \$17.5 million to \$185.7 million for the three months ended June 25, 2017 from \$168.2 million for the three months ended June 26, 2016. The increase in revenues was primarily due to increased work in our training solutions, cyber security and modular systems businesses within our KGS segment, an increase in our PSS segment of \$7.5 million due primarily to a large security system deployment for a mass transportation authority and, to a lesser degree, to a new physical access control project for a large healthcare customer. Revenues in our US segment increased due to an increase in shipments and production of certain of our unmanned aerial drone systems (“UAS”) and government funded work on certain new UAS initiatives.

Product sales increased \$14.1 million to \$94.1 million for the three months ended June 25, 2017 from \$80.0 million for the three months ended June 26, 2016, primarily as a result of an increase in production and product shipments in our KGS segment of \$9.7 million and \$4.4 million in our US segment. As a percentage of total revenue, product sales were 50.7% for the three months ended June 25, 2017 as compared to 47.6% for the three months ended June 26, 2016. Service revenues increased by \$3.4 million to \$91.6 million for the three months ended June 25, 2017 from \$88.2 million for the three months ended June 26, 2016. The increase was primarily related to the increase in revenues in our PSS segment, partially offset by a decrease in service revenue in our KGS segment.

*Cost of Revenues.* Cost of revenues increased \$15.3 million to \$138.3 million for the three months ended June 25, 2017 from \$123.0 million for the three months ended June 26, 2016. The increase in cost of revenues was primarily a result of the revenue changes discussed above.

Gross margin decreased to 25.5% for the three months ended June 25, 2017 from 26.9% for the three months ended June 26, 2016. Margins on services decreased slightly to 26.9% for the three months ended June 25, 2017 from 27.0% for the three months ended June 26, 2016, due primarily to a less favorable mix of revenues. Margins on product sales decreased to 24.2% for the three months ended June 25, 2017 from 26.8% for the three months ended June 26, 2016, due primarily to the mix of products shipped. Margins in the KGS segment decreased to 25.6% for the three months ended June 25, 2017 from 27.2% for the three months ended June 26, 2016, primarily as a result of a less favorable mix of revenues. Margins in the US segment increased to 24.3% for the three months ended June 25, 2017 from 23.0% for the three months ended June 26, 2016, primarily due to a more favorable mix of products produced and shipped during the three months ended June 25, 2017. Margins in the PSS segment decreased to 26.1% for the three months ended June 25, 2017 from 27.6% for the three months ended June 26, 2016, due primarily to a less favorable mix of revenues.

*Selling, General and Administrative (“SG&A”) Expenses.* SG&A expense was \$40.6 million for the three months ended June 25, 2017 and \$36.4 million for the three months ended June 26, 2016. As a percentage of revenues, SG&A increased slightly to 21.9% at June 25, 2017 from 21.6% at June 26, 2016.

*Research and Development (“R&D”) Expenses.* R&D expenses were \$4.1 million for the three months ended June 25, 2017 and \$4.0 million for the three months ended June 26, 2016. As a percentage of revenues, R&D decreased to 2.2% for the three months ended June 25, 2017 from 2.4% of revenues in the three months ended June 26, 2016. R&D expenditures are primarily related to investments we are making in conjunction with our customers, with the objectives of the Company’s products being the new platform for or “designed-in” to certain new long-term program opportunities and the Company owning certain intellectual property rights for products that support these programs as well as technology upgrades and refresh activities that are necessary for the next generation of our existing product lines specifically in our technology and satellite communications business.

*Unused Office Space, Restructuring Expenses, and Other.* The expense of \$0.1 million for the three months ended June 25, 2017 was primarily due to employee termination costs related to personnel reduction actions taken in the second quarter of 2017. The expense of \$4.8 million for the three months ended June 26, 2016 was primarily due to a \$4.7 million charge that was recorded in the Company’s modular systems business as a result of the closure of one of its manufacturing facilities and the exit from certain lower margin product business lines in the second quarter of 2016. The restructuring charges were comprised of an impairment charge of \$3.4 million related to fixed and intangible assets and a \$1.3 million charge for excess facility costs.

*Other Expense, Net.* Other expense, net, decreased to \$7.0 million from \$8.5 million for the three months ended June 25, 2017 and June 26, 2016, respectively. The decrease in expense of \$1.5 million is primarily related to a decrease in interest expense due to repurchases of our Notes (as defined below) that occurred in the fourth quarter of 2016 and the first quarter of 2017.

*Provision for Income Taxes.* Income tax expense for the three months ended June 25, 2017 and June 26, 2016 was \$1.8 million. For the three months ended June 25, 2017 and June 26, 2016, the expense was primarily a function of the estimated effective tax rate for the year. The estimated effective tax rate is driven by estimated foreign taxes, estimated federal and state taxes, permanent book/tax differences, tax amortization of intangible assets that have an indefinite life under GAAP and the projected income or loss for the year.

*Loss from Discontinued Operations.* The loss from discontinued operations was \$0.1 million for the three months ended June 26, 2016, which reflects the results of the divested U.S. and U.K. Electronic Products Divisions (the “Herley Entities”).

#### Comparison of Results for the Six Months Ended June 25, 2017 to the Six Months Ended June 26, 2016

*Revenues.* Revenues by operating segment for the six months ended June 25, 2017 and June 26, 2016 are as follows (dollars in millions):

	June 25, 2017	June 26, 2016	\$ change	% change
Kratos Government Solutions				
Service revenues	\$ 101.9	\$ 110.2	\$ (8.3)	(7.5)%
Product sales	139.1	118.4	20.7	17.5 %
Total Kratos Government Solutions	241.0	228.6	12.4	5.4 %
Public Safety & Security service revenues	74.7	60.6	14.1	23.3 %
Unmanned Systems product sales	37.8	32.0	5.8	18.1 %
Total revenues	\$ 353.5	\$ 321.2	\$ 32.3	
Total service revenues	\$ 176.6	\$ 170.8	\$ 5.8	3.4 %
Total product sales	176.9	150.4	26.5	17.6 %
Total revenues	\$ 353.5	\$ 321.2	\$ 32.3	10.1 %

Revenues increased \$32.3 million to \$353.5 million for the six months ended June 25, 2017 from \$321.2 million for the six months ended June 26, 2016. The increase in revenues was primarily due to increased work in our satellite communications, training solutions and modular systems businesses within our KGS segment, an increase in our PSS business

revenue of \$14.1 million due primarily to a large security system deployment for a mass transportation authority and, to a lesser degree, to a new physical access control project for a large healthcare customer. Revenues in our US segment increased due to an increase in shipments and production of certain of our aerial drone systems and government funded work on certain new UAS initiatives.

Product sales increased \$26.5 million to \$176.9 million for the six months ended June 25, 2017 from \$150.4 million for the six months ended June 26, 2016, primarily as a result of an increase in production and product shipments of \$20.7 million in our KGS segment and \$5.8 million in our US segment. As a percentage of total revenue, product sales were 50.0% for the six months ended June 25, 2017 as compared to 46.8% for the six months ended June 26, 2016. Service revenues increased by \$5.8 million to \$176.6 million for the six months ended June 25, 2017 from \$170.8 million for the six months ended June 26, 2016. The increase was primarily related to the increase in revenues in our PSS segment.

*Cost of Revenues.* Cost of revenues increased \$20.9 million to \$261.0 million for the six months ended June 25, 2017 from \$240.1 million for the six months ended June 26, 2016. The increase in cost of revenues was primarily a result of the revenue changes discussed above.

Gross margin increased to 26.2% for the six months ended June 25, 2017 from 25.2% for the six months ended June 26, 2016. Margins on services increased slightly to 27.1% for the six months ended June 25, 2017 from 27.0% for the six months ended June 26, 2016, due primarily to a more favorable mix of revenues. Margins on product sales increased to 25.3% for the six months ended June 25, 2017 from 23.3% for the six months ended June 26, 2016, primarily due to the mix of products shipped. Margins in the KGS segment increased to 27.7% for the six months ended June 25, 2017 from 25.5% for the six months ended June 26, 2016, primarily as a result of a more favorable mix of revenues. Margins in the US segment decreased to 18.0% for the six months ended June 25, 2017 from 18.4% for the six months ended June 26, 2016, primarily due to a less favorable mix of products produced and shipped during the six months ended June 25, 2017. Margins in the PSS segment decreased to 25.3% for the six months ended June 25, 2017 from 27.7% for the six months ended June 26, 2016, due primarily to a less favorable mix of services performed.

*SG&A Expenses.* SG&A expense was \$79.3 million for the six months ended June 25, 2017 and \$74.1 million for the six months ended June 26, 2016. As a percentage of revenues, SG&A decreased to 22.4% at June 25, 2017 from 23.1% at June 26, 2016, which is primarily due to the increase in revenue discussed above.

*R&D Expenses.* R&D expenses were \$8.5 million for the six months ended June 25, 2017 and \$6.9 million for the six months ended June 26, 2016. As a percentage of revenues, R&D increased to 2.4% for the six months ended June 25, 2017 from 2.1% of revenues in the six months ended June 26, 2016. R&D expenditures are primarily related to investments we are making in conjunction with our customers, with the objectives of the Company's products being the new platform for or "designed-in" to certain new long-term program opportunities and the Company owning certain intellectual property rights for products that support these programs as well as technology upgrades and refresh activities that are necessary for the next generation of our existing product lines specifically in our technology and satellite communications business.

*Unused Office Space, Restructuring Expenses, and Other.* The expense of \$0.4 million for the six months ended June 25, 2017 was primarily due to employee termination costs related to personnel reduction actions taken in the first and second quarters of 2017. The expense of \$10.3 million for the six months ended June 26, 2016 was primarily due to a \$7.7 million charge that was recorded in the Company's modular systems business as a result of the closure of one of its manufacturing facilities and the exit from certain lower margin product business lines, a \$1.9 million charge related to a litigation settlement of a contract dispute in our PSS business during the first quarter of 2016, and employee termination costs related to personnel reduction actions taken in the first quarter of 2016. The restructuring charge recorded in our modular systems business was comprised of \$3.4 million related to fixed and intangible assets, \$3.0 million related to exited product lines and \$1.3 million related to excess facilities.

*Other Expense, Net.* Other expense, net, increased to \$17.1 million from \$16.9 million for the six months ended June 25, 2017 and June 26, 2016, respectively. The increase in other expense, net, of \$0.2 million is primarily related to the loss of \$1.4 million and the realization of \$0.4 million of unamortized issuance cost and \$0.3 million of unamortized discount from the repurchase and extinguishment of \$62.7 million of our Notes, which resulted in a \$2.1 million loss on extinguishment of debt in the first quarter of 2017. This loss was partially offset by a reduction in interest expense of \$1.8 million due to the repurchases of the Notes that occurred in the fourth quarter of 2016 and the first quarter of 2017.

*Provision for Income Taxes.* Income tax expense for the six months ended June 25, 2017 and June 26, 2016 was \$3.3 million and \$5.4 million, respectively. For the six months ended June 25, 2017 and June 26, 2016, the expense was primarily a function of the estimated effective tax rate for the year. The estimated effective tax rate is driven by estimated foreign taxes,

estimated federal and state taxes, permanent book/tax differences, tax amortization of intangible assets that have an indefinite life under GAAP and the projected income or loss for the year. The income tax expense for the six months ended June 26, 2016 includes a discrete tax expense of \$1.7 million related to an increase in uncertain tax positions.

*Loss from Discontinued Operations.* The loss from discontinued operations was \$0.1 million for the six months ended June 25, 2017. The loss from discontinued operations was \$0.1 million for the six months ended June 26, 2016.

## **Backlog**

As of June 25, 2017 and June 26, 2016, our backlog was approximately \$766.5 million and \$874.6 million, respectively, of which \$543.8 million was funded in 2017 and \$542.3 million was funded in 2016. Backlog is our estimate of the amount of revenue we expect to realize over the remaining life of awarded contracts and task orders that we have in hand as of the measurement date. Our total backlog consists of funded and unfunded backlog. We define funded backlog as estimated future revenue under government contracts and task orders for which funding has been appropriated by Congress and authorized for expenditure by the applicable agency, plus our estimate of the future revenue we expect to realize from our commercial contracts that are under firm orders. Our funded backlog does not include the full potential value of our contracts because Congress often appropriates funds to be used by an agency for a particular program of a contract on a yearly or quarterly basis even though the contract may call for performance over a number of years. As a result, contracts typically are only partially funded at any point during their term, and all or some of the work to be performed under the contracts may remain unfunded unless and until Congress makes subsequent appropriation and the procuring agency allocates funding to the contract.

Unfunded backlog reflects our estimate of future revenue under awarded government contracts and task orders for which either funding has not yet been appropriated or the expenditure has not yet been authorized. Our total backlog does not include estimates of revenue from government-wide acquisition contracts or General Services Administration schedules beyond awarded or funded task orders, but our unfunded backlog does include estimates of revenue beyond awarded or funded task orders for other types of indefinite delivery or indefinite quantity contracts based on our experience under such contracts and similar contracts. Unfunded backlog also includes priced options, which consist of the aggregate contract revenues expected to be earned as a result of a customer exercising an option period that has been specifically defined in the original contract award.

Contracts undertaken by us may extend beyond one year. Accordingly, portions are carried forward from one year to the next as part of backlog. Because many factors affect the scheduling of projects, no assurance can be given as to when revenue will be realized on projects included in our backlog. Although funded backlog represents only business that is considered to be firm, we cannot guarantee that cancellations or scope adjustments will not occur. The majority of funded backlog represents contracts with terms that would entitle us to all or a portion of our costs incurred and potential fees upon cancellation by the customer.

Management believes that year-to-year comparisons of backlog are not necessarily indicative of future revenues. The actual timing of receipt of revenues, if any, on projects included in backlog could change because many factors affect the scheduling of projects. In addition, cancellation or adjustments to contracts may occur. Backlog is typically subject to large variations from quarter-to-quarter as existing contracts are renewed or new contracts are awarded. Additionally, all U.S. Government contracts included in backlog, whether or not funded, may be terminated at the convenience of the U.S. Government.

## **Liquidity and Capital Resources**

As of June 25, 2017, we had cash and cash equivalents of \$63.3 million compared with cash and cash equivalents of \$69.1 million as of December 25, 2016, which includes \$5.4 million and \$5.2 million, respectively, of cash and cash equivalents held by our foreign subsidiaries. We are not presently aware of any restrictions on the repatriation of these funds; however, earnings of these foreign subsidiaries are considered permanently invested in these foreign subsidiaries. If these funds were needed to fund our operations or satisfy obligations in the U.S. they could be repatriated, and their repatriation into the U.S. may cause us to incur additional U.S. income taxes or foreign withholding taxes. Any additional U.S. income taxes could be offset, in part or in whole, by foreign tax credits. The amount of such taxes and application of tax credits would be dependent on the income tax laws and other circumstances at the time these amounts are repatriated. Based on these variables, it is not practicable to determine the income tax liability that might be incurred if these earnings were to be repatriated. We do not currently intend to repatriate these earnings.

The carrying amount of our total debt, including capital lease obligations, principal due on our Notes, and other term debt decreased from \$432.0 million at December 25, 2016 to \$370.5 million at June 25, 2017, due to the redemption of \$62.7 million of our Notes during the six months ended June 25, 2017, in addition to the principal payment required on our ten-year term loan with a bank in Israel, offset partially by the amortization of the discount on our Notes and the amortization of deferred financing costs.

We use our operating cash flow to finance trade accounts receivable, fund necessary increases in inventory, fund capital expenditures, our internal research and development and product development investments, and our ongoing operations, service our debt and make strategic acquisitions. Financing trade accounts receivable is necessary because, on average, our customers do not pay us as quickly as we pay our vendors and employees for their goods and services since a number of our receivables are contractually billable and due to us only when certain contractual milestones are achieved. Financing increases in inventory balances is necessary to fulfill shipment requirements to meet delivery schedules of our customers. Cash from continuing operations is primarily derived from our customer contracts in progress and associated changes in working capital components. Our days sales outstanding (“DSO”) have decreased to 111 days as of June 25, 2017 from 115 days as of December 25, 2016. Our DSOs can fluctuate from period to period, primarily as a result of certain contractual billing milestones that have not yet been attained, such as equipment shipments and deliveries on certain products, and for certain flight requirements that must be fulfilled on certain aerial target programs, or final billings which are not due until completion on certain of our large critical infrastructure deployment projects and large training systems deliveries, and therefore we are unable to contractually bill for amounts outstanding related to those milestones at this time. In addition, we used our working capital during the six months ended June 25, 2017 to build inventory of approximately \$7.4 million in anticipation of future scheduled product deliveries.

A summary of our net cash provided by (used in) operating activities from continuing operations, investing activities from continuing operations, and financing activities from continuing operations and our cash flows from discontinued operations from our condensed consolidated statements of cash flows is as follows (in millions):

	Six Months Ended	
	June 25, 2017	June 26, 2016
Net cash used in operating activities from continuing operations	\$ (11.3)	\$ (12.4)
Net cash used in investing activities from continuing operations	(11.9)	(3.5)
Net cash provided by financing activities from continuing operations	17.8	0.5
Net operating cash flows of discontinued operations	(0.1)	0.1
Net investing cash flows of discontinued operations	(0.4)	4.5

Net cash used in operating activities from continuing operations for the six months ended June 25, 2017 was positively impacted by increased operating income as compared to the six months ended June 26, 2016, offset by changes in working capital accounts. The net use in working capital accounts for the six months ended June 25, 2017 includes approximately \$4.9 million of internal development investments we are making related to the Low Cost Attritable Unmanned Aerial System Demonstration (“LCASD”) or “Valkyrie”. For fiscal 2017, we expect to spend \$7.0 million to \$10.0 million on internal product development efforts that are non-capital expenditures related to the LCASD program.

Net cash used in investing activities from continuing operations for the six months ended June 25, 2017 is comprised of capital expenditures, which consist primarily of investments in machinery, computer hardware and software and improvement of our physical properties in order to maintain suitable conditions in which to conduct our business, as well as expenditures related to internal capital investments to build company-owned capital aerial targets and related support equipment and tooling related to the Valkyrie and UTAP-22 or “Mako” platforms for the six months ended June 25, 2017. During the six months ended June 25, 2017, capital expenditures of approximately \$7.7 million were incurred in our US business, primarily related to our unmanned combat target initiative. We expect our capital expenditures for fiscal 2017 to be significant due primarily to the capital aerial targets and related support equipment and tooling that we are building related to the Valkyrie and Mako platforms in our US business. These capital expenditures are expected to equal an aggregate of approximately \$18.0 million to \$23.0 million for fiscal 2017. Net cash used in investing activities for the six months ended June 26, 2016 is comprised of capital expenditures, which consist primarily of investment in machinery, computer hardware and software and improvement of our physical properties in order to maintain suitable conditions in which to conduct our business.

Net cash provided by financing activities from continuing operations for the six months ended June 25, 2017 was primarily net proceeds of \$81.9 million from our recent completed equity offering of 11.9 million shares of common stock, partially offset by \$64.0 million used to retire approximately \$62.7 million in principal amount of outstanding Notes. Net cash provided by financing activities from continuing operations for the six months ended June 26, 2016 was primarily proceeds from our employee stock purchase plan.

The investing cash flow from discontinued operations for the six months ended June 25, 2017 reflects cash used of \$0.4 million, primarily related to the discontinued operations of the Herley Entities. The investing cash flow from discontinued operations for the six months ended June 26, 2016 reflects cash used of \$4.5 million, primarily related to the reimbursement of taxes related to the sale of the Herley Entities.

## **Contractual Obligations and Commitments**

### **7.00% Senior Secured Notes due 2019**

In May 2014, we refinanced our \$625.0 million of 10% Senior Secured Notes due in 2017 (the "10% Notes") with \$625.0 million of newly issued 7.00% Senior Secured Notes due in 2019 (the "7% Notes"). The net proceeds from the issuance of the 7% Notes was \$618.5 million after an original issue discount of \$6.5 million. We incurred debt issuance costs of \$8.8 million associated with the 7% Notes. We utilized the net proceeds from the issuance of the 7% Notes, a \$41.0 million draw on our Credit Agreement (as defined below), as well as cash from operations to extinguish the 10% Notes. The total reacquisition price of the 10% Notes was \$661.5 million including a \$31.2 million early termination fee, the write-off of \$15.5 million of unamortized issue costs, \$12.9 million of unamortized premium, along with \$5.3 million of additional interest while in escrow, which resulted in a loss on extinguishment of debt of \$39.1 million.

We completed the offering of the 7% Notes in a private placement conducted pursuant to Rule 144A and Regulation S under the Securities Act of 1933, as amended (the "Act"). On October 16, 2014, the Company exchanged the outstanding 7% Notes for an equal amount of new 7.00% Senior Secured Notes due in 2019 (the "Notes") that had been registered under the Act. The terms of the Notes issued in the exchange offer were identical in all material respects to the terms of the 7% Notes, except the Notes issued in the exchange offer had been registered under the Act.

The Notes are governed by an Indenture, dated May 14, 2014 (the "Indenture"), among the Company, certain of the Company's subsidiaries (the "Subsidiary Guarantors") and Wilmington Trust, National Association, as Trustee and Collateral Agent. A Subsidiary Guarantor can be released from its Guarantee (as defined in the Indenture) if (a) all of the capital stock issued by such Subsidiary Guarantor or all or substantially all of the assets of such Subsidiary Guarantor are sold or otherwise disposed of; (b) the Company designates such Subsidiary Guarantor as an Unrestricted Subsidiary (as defined in the Indenture); (c) if the Company exercises its legal defeasance option or its covenant defeasance option; or (d) upon satisfaction and discharge of the Indenture or payment in full in cash of the principal of, premium, if any, and accrued and unpaid interest on the Notes.

The holders of the Notes have a first priority lien on substantially all of the Company's assets and the assets of the Subsidiary Guarantors, except with respect to accounts receivable, inventory, deposit accounts, securities accounts, cash, securities and general intangibles (other than intellectual property), on which the holders of the Notes have a second priority lien to our \$110.0 million Credit Agreement.

We pay interest on the Notes semi-annually, in arrears, on May 15 and November 15 of each year.

The Notes include customary covenants and events of default as well as a consolidated fixed charge ratio of 2.0:1 for the incurrence of additional indebtedness. Negative covenants include, among other things, limitations on additional debt, liens, negative pledges, investments, dividends, stock repurchases, asset sales and affiliate transactions. Events of default include, among other events, non-performance of covenants, breach of representations, cross-default to other material debt, bankruptcy, insolvency, material judgments and changes in control. As of June 25, 2017, we were in compliance with the covenants contained in the Indenture governing the Notes.

We may redeem some or all of the Notes at 102.625% of the aggregate principal amount of such Notes if redeemed on or before May 15, 2018 and 100% of the aggregate principal amount of such Notes if redeemed on or after May 16, 2018, plus accrued and unpaid interest to the date of redemption.

The terms of the Indenture require that the net cash proceeds from asset dispositions be utilized to (i) repay or prepay amounts outstanding under our Credit Agreement unless such amounts are reinvested in similar collateral, (ii) make an investment in assets that replace the collateral of the Notes or (iii) a combination of both clauses (i) and (ii). To the extent there

are any remaining net proceeds from the asset disposition after application of clauses (i) and (ii), such amounts are required to be utilized to repurchase Notes at par after 360 days following the asset disposition.

Following the sale of the Herley Entities, we paid down the \$41.0 million outstanding under the Credit Agreement and repurchased \$175.0 million of the Notes at par, in accordance with the terms of the Indenture.

The total reacquisition price of the Notes was \$178.4 million including the write off of \$1.8 million of unamortized issue costs, \$1.4 million of unamortized discount, along with \$0.2 million of legal fees, which resulted in a loss on extinguishment of debt of \$3.4 million.

The Company reinvested all net proceeds remaining after the repurchase of the \$175.0 million of Notes in replacement collateral under the Indenture within 360 days following the asset disposition, in accordance with the terms of the Indenture.

During the quarter ended December 25, 2016, the Company repurchased and extinguished \$14.5 million of the outstanding Notes, which resulted in a gain of \$0.4 million offset by \$0.1 million of unamortized issuance cost and \$0.1 million of unamortized discount resulting in a net gain of \$0.2 million.

During the quarter ended March 26, 2017, the Company repurchased and extinguished \$62.7 million of the outstanding Notes, which resulted in a loss of \$1.4 million and the realization of \$0.4 million of unamortized issuance cost and \$0.3 million of unamortized discount resulting in a net loss of \$2.1 million.

As of June 25, 2017, there was \$372.8 million in Notes outstanding.

## **Other Indebtedness**

### *\$110.0 Million Credit Agreement*

On May 14, 2014, we entered into a \$110.0 million Credit and Security Agreement, dated May 14, 2014 (the "Credit Agreement"), with the lenders from time to time party thereto, SunTrust Bank, as Agent (the "Agent"), PNC Bank, National Association, as Joint Lead Arranger and Documentation Agent, and SunTrust Robinson Humphrey, Inc., as Joint Lead Arranger and Sole Book Runner. The Credit Agreement established a five-year senior secured revolving credit facility in the maximum amount of \$110.0 million (subject to a potential increase of the maximum principal amount to \$135.0 million, subject to the Agent's and applicable lenders' approval as described therein), consisting of a subline for letters of credit in an amount not to exceed \$50.0 million, as well as a swingline loan in an aggregate principal amount at any time outstanding not to exceed \$10.0 million. The obligations under the Credit Agreement are secured by (i) a first priority lien on our accounts receivable, inventory, deposit accounts, securities accounts, cash, securities and general intangibles (other than intellectual property) and (ii) a second priority lien, junior to the lien securing the Notes, on all of our other assets.

The Credit Agreement contains certain covenants, which include, but are not limited to, restrictions on indebtedness, liens, and investments, and limits on other various payments, as well as a financial covenant relating to a minimum fixed charge coverage ratio of 1.15:1 (as modified per the Third Amendment and the Fourth Amendment, as defined and discussed below). Events of default under the terms of the Credit Agreement include, but are not limited to: our failure to pay any principal of any loans in full when due and payable; our failure to pay any interest on any loan or any fee or other amount payable under the Credit Agreement within three business days after the date when due and payable; our failure or the failure of any of our subsidiaries to comply with certain covenants and agreements, subject to applicable grace periods and/or notice requirements; any representation, warranty or statement made in or pursuant to the Credit Agreement or any related writing or any other material information furnished by us or any of our subsidiaries to the Agent or the lenders proving to be false or erroneous; and the occurrence of an event or condition having or reasonably likely to have a material adverse effect, which includes a material adverse effect on the business, operations, condition (financial or otherwise) or our prospects or our ability to repay our obligations. Where an event of default arises from certain bankruptcy events, the commitments will automatically and immediately terminate and the principal of, and interest then outstanding on, all of the loans will become immediately due and payable. Subject to certain notice requirements and other conditions, upon the occurrence of an event of default, including the occurrence of a condition having or reasonably likely to have a material adverse effect, commitments may be terminated and the principal of, and interest then outstanding on, all of the loans may become immediately due and payable. As of June 25, 2017, no event of default had occurred and we believe that events or conditions having a material adverse effect, giving rise to an acceleration of any amounts outstanding under the Credit Agreement, have not occurred and the likelihood of such events or conditions occurring is remote.

Borrowings under the Credit Agreement may take the form of a base rate revolving loan, Eurodollar revolving loan or

swingline loan. Base rate revolving loans and swingline loans will bear interest at a rate per annum equal to the sum of the applicable margin from time to time in effect plus the highest of (i) the Agent's prime lending rate, as in effect at such time, (ii) the federal funds rate, as in effect at such time, plus 0.50% per annum, and (iii) the adjusted London Interbank Offered Rate ("LIBOR") determined at such time for an interest period of one month, plus 1.00% per annum. Eurodollar revolving loans will bear interest at a rate per annum equal to the sum of the applicable margin from time to time in effect plus the adjusted LIBOR. The applicable margin varies between 1.50% and 2.00% for base rate revolving loans and swingline loans and 2.50% and 3.00% for Eurodollar loans, and is based on several factors including our then-existing borrowing base and the lender's total commitment amount and revolving credit exposure. The calculation of our borrowing base takes into account several items relating to us and our subsidiaries, including, without limitation, amounts due and owing under billed and unbilled accounts receivables, then-held eligible raw materials inventory, work-in-process inventory, and applicable reserves.

On May 31, 2015, we entered into a third amendment (the "Third Amendment") to the Credit Agreement. Under the terms of the Third Amendment, the definitions of certain terms of the Credit Agreement were modified, the disposition of the Herley Entities was approved by the lenders, a minimum \$175.0 million repurchase of the Notes by us was required, and the payment in full of the outstanding balance of the Credit Agreement was required. Additionally, the measurement of the fixed charge coverage ratio of 1.15:1 was modified as follows: (i) the fixed charge coverage ratio will not be measured as of the end of any quarterly reporting period ending after June 30, 2015, if on such date (a) there are no outstanding revolving loans or swingline loans and (b) the aggregate amount outstanding under letters of credit is less than or equal to \$17.0 million, and (ii) as to any subsequent quarterly reporting period ending after June 30, 2015, and not covered by clause (i) above, a fixed charge coverage ratio of at least 1.05:1 must be maintained if the percentage of (a) outstanding revolving loans plus the sum of the outstanding swingline loans and outstanding letters of credit that are in excess of \$17.0 million, to (b) the revolving credit commitment, minus the Herley Disposition Proceeds Reinvestment Reserve (as defined below) is greater than 0.00% but less than 15.00% or a fixed charge coverage ratio of at least 1.10:1 must be maintained if the aforementioned percentage is equal to or greater than 15.00% but less than 25.00%. In all other instances, a fixed charge coverage ratio of at least 1.15:1 must be maintained. For purposes of computing the fixed charge coverage ratio, the associated reduction in consolidated interest expense in connection with the repurchase of Notes with proceeds from the sale of the Herley Entities shall be deemed to have occurred on the first day of the most recently completed four quarterly reporting periods prior to the sale.

The terms of the Third Amendment also included the establishment of a reserve (the "Herley Disposition Proceeds Reinvestment Reserve") that reduced the maximum \$110.0 million total borrowing base on the Credit Agreement. With the sale of the Herley Entities, a \$50.8 million reserve was established based upon the collateral carrying value under the Credit Agreement of the Herley Entities disposed. The reserve and therefore the maximum borrowing base were adjusted monthly for the subsequent cumulative reinvestment in similar collateral assets over a period not to have exceeded 360 days from the date of sale of the Herley Entities. As of June 25, 2017, there was no reserve on the maximum borrowings, resulting from a cumulative reinvestment in similar collateral assets since the sale of the Herley Entities in excess of the \$50.8 million reserve established at the date of the sale of the Herley Entities. The Company made investments in assets that replaced the collateral, which reinstated the maximum facility to the full \$110.0 million as of the end of the first quarter of 2016.

On August 20, 2015, we entered into a fourth amendment (the "Fourth Amendment") to the Credit Agreement. Among other things, the Fourth Amendment provides for a modification of the Third Amendment as it relates to when the minimum fixed charge coverage ratio will be measured based upon our outstanding borrowings. Outstanding borrowings for purposes of computing the applicable minimum fixed charge coverage ratio exclude any letter of credit exposure outstanding of \$17.0 million plus the amount of letters of credit outstanding for the divested Herley Entities for which a cash deposit has been placed in escrow by the buyer to cover the amount of such outstanding letters of credit, should the letters of credit be pulled.

As of June 25, 2017, there were no borrowings outstanding on the Credit Agreement and \$10.1 million was outstanding on letters of credit, resulting in net borrowing base availability of \$72.4 million. We were in compliance with the financial covenants of the Credit Agreement and its amendments as of June 25, 2017.

#### *Debt Acquired in Acquisition*

We assumed a \$10.0 million ten-year term loan with a bank in Israel entered into on September 16, 2008 in connection with the acquisition of one of its wholly owned subsidiaries. The balance under the term loan as of June 25, 2017 was \$1.3 million, and the loan is payable in quarterly installments of \$0.3 million plus interest at LIBOR plus a margin of 1.5%. The loan agreement governing the term loan contains various covenants, including a minimum net equity covenant as defined in the loan agreement. We were in compliance with all covenants contained in this loan agreement as of June 25, 2017.

#### *New Leases*

On May 1, 2017, we entered into an office lease for our new corporate headquarters in San Diego, California. The premises being rented consist of approximately 26,192 square feet of office space. The Lease has an initial term of 10 years and is anticipated to commence in October 2018. The Lease can be extended for one 5-year term, which must be exercised by giving written notice to the Landlord not earlier than 12 months and not later than 10 months prior to the expiration of the initial term. The base rent under the Lease is initially approximately \$817,200 per year, escalating over the 10 years at approximately 3.0% per annum. In addition to the base rent, we will pay additional rent for our proportionate share of operating expenses, taxes, utilities and insurance expenses for the complex in which the premises are located.

On May 31, 2017, we entered into two lease agreements for office space consisting of approximately 61,000 square feet in an existing building (“Existing Building”) and 91,000 square feet in a new building that is to be constructed (“New Building”) in Colorado Springs, Colorado. The initial lease term for the Existing Building is from May 31, 2017 to May 31, 2032. Upon completion of the New Building, the lease for the New Building will terminate and the lease for the Existing Building will be amended and restated to cover the New Building and the Existing Building. The lease term for such amended and restated lease will be fifteen years from the rent commencement date of the New Building.

The annual base rent for the Existing Building will be approximately \$994,800, with an annual escalation of the lesser of 2% or the consumer price index, and such base rent will be adjusted at a later time based on building improvements funded by the Landlord. The annual base rent for the New Building will depend on the Landlord’s construction costs for the New Building, but the initial annual base rent for the New Building should not exceed approximately \$1.9 million. In addition to the base rent, we will pay for taxes, utilities insurance, and maintenance expenses for the New Building and the Existing Building.

With the exception of the new leases described above, there were no other significant changes to our contractual obligations during the first six months of fiscal 2017.

### **Other Liquidity Matters**

We believe that our cash on hand, together with funds available under the Credit Agreement and cash expected to be generated from operating activities, will be sufficient to fund our anticipated working capital and other cash needs for at least the next 12 months.

As discussed in Part I, Item 1A, “Risk Factors” of the Form 10-K, our quarterly and annual operating results have fluctuated in the past and may vary in the future due to a variety of factors, many of which are external to our control. If the conditions in our industry deteriorate or our customers cancel or postpone projects or if we are unable to sufficiently increase our revenues or further reduce our expenses, we may experience, in the future, a significant long-term negative impact to our financial results and cash flows from operations. In such a situation, we could fall out of compliance with our financial and other covenants, which, if not waived, could limit our liquidity and capital resources.

### **Critical Accounting Principles and Estimates**

The foregoing discussion of our financial condition and results of operations is based on the condensed consolidated financial statements included in this Quarterly Report. The preparation of these condensed consolidated financial statements requires us to make estimates and judgments that affect the reported amounts of assets, liabilities, sales and expenses, and the related disclosures of contingencies. We base these estimates on historical experience and on various other assumptions that are believed to be reasonable under the circumstances, the results of which form the basis for making judgments about the carrying values of assets and liabilities. Actual results may differ from these estimates.

There have been no significant changes to our “Critical Accounting Policies or Estimates” as compared to the significant accounting policies described in the Form 10-K.

### **Item 3. Quantitative and Qualitative Disclosures About Market Risk.**

Since December 25, 2016, there have been no material changes in the quantitative or qualitative aspects of our market risk profile. For additional information regarding the Company’s exposure to certain market risks, see “Item 7A. Quantitative and Qualitative Disclosures About Market Risk” included in the Form 10-K.

**Item 4. Controls and Procedures.**

*Conclusions Regarding the Effectiveness of Disclosure Controls and Procedures*

We maintain disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) promulgated under the Securities Exchange Act of 1934, as amended (the “Exchange Act”), designed to ensure that information required to be disclosed in our reports filed under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the SEC’s rules and forms and that such information is accumulated and communicated to our management, including our Principal Executive Officer and Principal Financial Officer, as appropriate, to allow timely decisions regarding required disclosure. In designing and evaluating the disclosure controls and procedures, management recognized that any controls and procedures, no matter how well designed and operated, can provide only reasonable assurance of achieving the desired control objectives, and management necessarily was required to apply its judgment in evaluating the cost benefit relationship of possible controls and procedures.

As required by Rule 13a-15(b) promulgated under the Exchange Act, we carried out an evaluation, under the supervision and with the participation of our management, including our Principal Executive Officer and Principal Financial Officer, 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.

Based on the foregoing, our Principal Executive Officer and Principal Financial Officer concluded that our disclosure controls and procedures were effective at the reasonable assurance level as of June 25, 2017.

*Changes in Internal Control Over Financial Reporting*

We operate under the COSO (Committee of Sponsoring Organizations) 2013 Framework. There was no change in our internal control over financial reporting during the three months ended June 25, 2017 that has materially affected, or is reasonably likely to materially affect, our internal control over financial reporting.

**PART II. OTHER INFORMATION**

**Item 1. Legal Proceedings.**

See Note 10 of the Notes to the Condensed Consolidated Financial Statements contained within this Quarterly Report on Form 10-Q for a discussion of our legal proceedings.

**Item 1A. Risk Factors.**

In evaluating us and our common stock, we urge you to carefully consider the risks and other information in this Quarterly Report, as well as the risk factors disclosed in Item 1A to Part I of the Form 10-K, and other reports that we have filed with the SEC. Any of the risks discussed in such reports, as well as additional risks and uncertainties not currently known to us or that we currently deem immaterial, could materially and adversely affect our results of operations, financial condition or prospects. There have been no material changes in our risk factors as previously disclosed in the Form 10-K during the period covered by this Quarterly Report.

**Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.**

None.

**Item 3. Defaults Upon Senior Securities.**

None.

**Item 4. Mine Safety Disclosures.**

Not applicable.

**Item 5. Other Information.**

None.

**Item 6. Exhibits.**

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed-Furnished Herewith
		Form	Filing Date/ Period End Date	Exhibit	
2.1#†	Stock Purchase Agreement, dated May 31, 2015, among Kratos Defense & Security Solutions, Inc., Herley Industries, Inc., Ultra Electronics Defense Inc. and Ultra Electronics Holdings plc.	10-Q	08/06/2015 (001-34460)	2.4	
3.1	Amended and Restated Certificate of Incorporation of Kratos Defense & Security Solutions, Inc., as amended.	10-K	02/27/2017 (001-34460)	3.1	
3.2	Second Amended and Restated Bylaws of Kratos Defense & Security Solutions, Inc., as amended.	10-K	02/27/2017 (001-34460)	3.2	
4.1	Specimen Stock Certificate.	10-K	02/27/2017 (001-34460)	4.1	
4.2	Indenture, dated as of May 14, 2014, among Kratos Defense & Security Solutions, Inc., as Issuer, the Guarantors party thereto, and Wilmington Trust, National Association, as Trustee and Collateral Agent (including the Form of 7.00% Senior Secured Notes due 2019).	8-K	05/15/2014 (001-34460)	4.1	
4.3	Registration Rights Agreement, dated as of May 14, 2014, among Kratos Defense & Security Solutions, Inc., as Issuer, the Guarantors party thereto, and SunTrust Robinson Humphrey, Inc., as Representative of the Initial Purchasers.	8-K	05/15/2014 (001-34460)	10.1	
10.1	Office Lease, dated as of May 1, 2017, by and between Kratos Defense & Security Solutions, Inc. and TPP 212 Scripps, LLC.	10-Q	5/04/2017 (001-34460)	10.2	
10.2	Lease Agreement, dated as of May 31, 2017, by and between STORE Capital Acquisitions, LLC and Real Time Logic, Inc.				*
10.3	Lease Agreement, dated as of May 31, 2017, by and between STORE Capital Acquisitions, LLC and Real Time Logic, Inc.				*
31.1	Certification of Chief Executive Officer pursuant to Section 302 of the Sarbanes Oxley Act of 2002.				*
31.2	Certification of Chief Financial Officer pursuant to Section 302 of the Sarbanes Oxley Act of 2002.				*
32.1	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 for Eric M. DeMarco.				*
32.2	Certification pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002 for Deanna Lund.				*

Exhibit Number	Exhibit Description	Incorporated by Reference			Filed-Furnished Herewith
		Form	Filing Date/ Period End Date	Exhibit	
101	Financial statements from the Quarterly Report on Form 10-Q of Kratos Defense & Security Solutions, Inc. for the quarter ended June 25, 2017 formatted in XBRL: (i) the Condensed Consolidated Balance Sheets, (ii) the Condensed Consolidated Statements of Operations and Comprehensive Loss, (iii) the Condensed Consolidated Statements of Cash Flows, (iv) the Notes to the Condensed Consolidated Financial Statements.				*

# Certain schedules and exhibits referenced in this document have been omitted in accordance with Item 601(b)(2) of Regulation S-K. A copy of any omitted schedule and/or exhibit will be furnished supplementally to the Securities and Exchange Commission upon request.

† This Exhibit has been filed separately with the Secretary of the Securities and Exchange Commission without the redaction pursuant to a Confidential Treatment Request under Rule 24b-2 of the Securities Exchange Act of 1934, as amended.



## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (this "Lease") is made as of May 31, 2017 (the "Effective Date"), by and between **STORE CAPITAL ACQUISITIONS, LLC**, a Delaware limited liability company ("Lessor"), whose address is 8377 E. Hartford Drive, Suite 100, Scottsdale, Arizona 85255, and **REAL TIME LOGIC, INC.**, a Colorado corporation ("Lessee"), whose address is 12515 Academy Ridge View, Colorado Springs, Colorado 80921. Capitalized terms not defined herein shall have the meanings set forth in Exhibit A hereto.

In consideration of the mutual covenants and agreements herein contained, Lessor and Lessee hereby covenant and agree as follows:

### ARTICLE I

#### BASIC LEASE TERMS

**Section 1.01. Property.** A portion of the real property and improvements commonly known as 12515 and 12575 Academy Ridge View, Colorado Springs, CO 80921, as more specifically described on Exhibit B, attached hereto and incorporated herein.

**Section 1.02. Initial Term Expiration Date.** May 31, 2032.

**Section 1.03. Extension Options.** Two (2) extensions of five (5) years each, as described in Section 3.02.

**Section 1.04. Term Expiration Date (if fully extended).** May 31, 2042.

**Section 1.05. Initial Base Annual Rental.** \$994,800, payable pursuant to Section 4.01.

**Section 1.06. Rental Adjustment.** The lesser of (i) 2%, or (ii) 1.0 times the change in the Price Index, as described in Section 4.02.

**Section 1.07. Adjustment Date.** June 1, 2018, and annually thereafter during the Lease Term (including any Extension Term).

**Section 1.08. Guarantor.** Kratos Defense & Security Solutions, Inc.

**Section 1.09. Lessee Tax Identification No.** 74-3063615.

**Section 1.10. Lessor Tax Identification No.** 45-2674893.

### ARTICLE II

#### LEASE OF PROPERTY

**Section 2.01. Lease.** In consideration of Lessee's payment of the Rental and other Monetary Obligations and Lessee's performance of all other obligations hereunder, Lessor hereby leases to Lessee, and Lessee hereby takes and hires, the Property, "AS IS" and "WHERE IS"

without representation or warranty by Lessor, and subject to the existing state of title, the parties in possession, any statement of facts which an accurate survey or physical inspection might reveal, and all Legal Requirements now or hereafter in effect.

**Section 2.02. Quiet Enjoyment.** So long as Lessee shall pay the Rental and other Monetary Obligations provided in this Lease and shall keep and perform all of the terms, covenants and conditions on its part contained herein and subject to the rights of Lessor under Section 12.02, Lessee shall have, subject to the terms and conditions set forth herein, the right to the peaceful and quiet enjoyment and occupancy of the Property.

**Section 2.03. Lease of Entire Parcel.** Notwithstanding any provision contained herein, prior to or simultaneously with the Final Disbursement (but with "Effective Dates" that are the same date as the later to occur of the Final Disbursement or the Rent Commencement Date (as defined in the New Building Lease)), Lessee and Lessor agree to execute a termination of the New Building Lease and to execute an amendment and restatement of this Lease to expand the definition of Property to include all of the parcel or parcels of real estate, including all buildings, fixtures and other improvements located on the real estate commonly known as 12515 and 12575 Academy Ridge View, Colorado Springs, CO 80921, and legally described on Exhibit B, attached hereto and incorporated herein (the "Entire Parcel"). Such amendment and restatement of this Lease shall be in substantially the same form as attached to the Disbursement Agreement, and shall, among other things, (a) modify the definition of "Property" as defined in this Lease to describe the Entire Parcel (i.e., the Property and the New Building Area); (b) increase the Base Annual Rental to reflect the inclusion of the New Building Area; (c) reset the Initial Term of this Lease to be fifteen (15) years from the amendment and restatement date of this Lease, and (d) make such other changes reasonably necessary to reflect the expansion of the definition of Property in this Lease.

**Section 2.04. Warranty License.** Lessor hereby grants to Lessee during the Lease Term a license to use and enforce all warranties, guaranties, indemnities and similar rights (collectively, the "Warranties") which Lessor may have against any manufacturer, seller, engineer, contractor or builder in respect of any of the Property. Such license shall remain in effect until the expiration or earlier termination of this Lease, whereupon such license shall cease and Lessee shall have no further rights with respect to all of the Warranties without any further notice. Lessor shall also retain the right to enforce any Warranties upon the occurrence of an Event of Default. Lessee shall enforce the Warranties in accordance with their respective terms.

### ARTICLE III

#### LEASE TERM; EXTENSION

**Section 3.01. Initial Term.** The initial term of this Lease ("Initial Term") shall commence as of the Effective Date and shall expire at midnight on May 31, 2032, unless terminated sooner as provided in this Lease and as may be extended as provided herein. The time period during which this Lease shall actually be in effect, including any Extension Term, is referred to as the "Lease Term."

**Section 3.02. Extensions.** Unless this Lease has expired or has been sooner terminated, or an Event of Default has occurred and is continuing at the time any extension option is exercised, Lessee shall have the right and option (each, an "Extension Option") to extend the Initial Term for

the Property for two (2) additional successive periods of five (5) years each (each, an "Extension Term"), pursuant to the terms and conditions of this Lease then in effect.

**Section 3.03. Notice of Exercise.** Lessee may only exercise the Extension Options by giving written notice thereof to Lessor of its election to do so no later than one hundred twenty (120) days prior to the expiration of the then-current Lease Term. If written notice of the exercise of any Extension Option is not received by Lessor by the applicable dates described above, then this Lease shall terminate on the last day of the Initial Term or, if applicable, the last day of the Extension Term then in effect. Upon the request of Lessor or Lessee, the parties hereto will, at the expense of the requesting party, execute and exchange an instrument in recordable form setting forth the extension of the Lease Term in accordance with this Section 3.03.

**Section 3.04. Removal of Personalty.** Upon the expiration of the Lease Term, and if there is no then-existing continuing Event of Default, Lessee may remove from the Property all personal property (subject to any rights of Lessee's Institutional Lenders) belonging to Lessee. Lessee shall repair any damage caused by such removal and shall leave the Property clean and in good and working condition and repair inside and out, subject to normal wear and tear, casualty and condemnation. Any property of Lessee left on the Property on the tenth day following the expiration of the Lease Term shall, at Lessor's option, automatically and immediately become the property of Lessor.

## ARTICLE IV

### RENTAL AND OTHER MONETARY OBLIGATIONS

**Section 4.01. Base Monthly Rental.** During the Lease Term, on or before the first day of each calendar month, Lessee shall pay in advance the Base Monthly Rental then in effect. If the Effective Date is a date other than the first day of the month, Lessee shall pay to Lessor on the Effective Date the Base Monthly Rental prorated by multiplying the Base Monthly Rental by a fraction, the numerator of which is the number of days remaining in the month (including the Effective Date) for which Rental is being paid, and the denominator of which is the total number of days in such month.

**Section 4.02. Adjustments.** During the Lease Term (including any Extension Term), on the first Adjustment Date and on each Adjustment Date thereafter, the Base Annual Rental shall increase by an amount equal to the Rental Adjustment; *provided, however,* that in no event shall Base Annual Rental be reduced as a result of the application of the Rental Adjustment.

**Section 4.03. Additional Rental.** Lessee shall pay and discharge, as additional rental ("Additional Rental"), all sums of money required to be paid by Lessee under this Lease which are not specifically referred to as Rental. Lessee shall pay and discharge any Additional Rental when the same shall become due, provided that amounts which are billed to Lessor or any third party, but not to Lessee, shall be paid within fifteen (15) Business Days after Lessor's demand for payment thereof or, if earlier, when the same are due. In no event shall Lessee be required to pay to Lessor any item of Additional Rental that Lessee is obligated to pay and has paid to any third party pursuant to any provision of this Lease.

**Section 4.04. Rentals to be Net to Lessor.** The Base Annual Rental payable hereunder shall be net to Lessor, so that this Lease shall yield to Lessor the Rentals specified during the Lease Term, and all Costs and obligations of every kind and nature whatsoever relating to the Property shall be performed and paid by Lessee, except as stated elsewhere in the Lease. Lessee shall perform all of its obligations under this Lease at its sole cost and expense. All Rental and other Monetary Obligations which Lessee is required to pay hereunder shall be the unconditional obligation of Lessee and shall be payable in full when due and payable, without notice or demand, and without any setoff, abatement, deferment, deduction or counterclaim whatsoever (except for any Monetary Obligations that arise from Lessor's gross negligence or willful misconduct).

**Section 4.05. Wire Transfer.** Payments of the Base Monthly Rental and any other Monetary Obligations payable to Lessor hereunder shall be paid in immediately available funds to the account identified on Exhibit C attached hereto, or to any other account as Lessor may from time to time designate to Lessee. Each such payment shall be made by Lessee by wire or other electronic transfer of funds, or automatic debit from an account designated by Lessee if so elected by Lessee. Lessee shall continue to pay all Rental and other Monetary Obligations in such manner unless otherwise directed by Lessor. Notwithstanding the foregoing, in the event that Lessee fails, more than twice during any calendar year, to pay the Base Monthly Rental by wire or other electronic transfer of funds when due, Lessee shall deliver to Lessor a complete Authorization Agreement – Pre-Arranged Payments in the form provided by Lessor together with a voided check for account verification, establishing arrangements whereby payments of the Base Monthly Rental are transferred by Automated Clearing House Debit initiated by Lessor.

**Section 4.06. Late Charges; Default Interest.** Any delinquent payment not made within three (3) Business Days of the date such payment is due (provided that such three (3) Business Day grace period shall only be available once in any twelve (12) month period) shall, in addition to any other remedy of Lessor, incur a late charge of five percent (5%) (which late charge is intended to compensate Lessor for the cost of handling and processing such delinquent payment and should not be considered interest) and bear interest at the Default Rate, such interest to be computed from and including the date such payment was due through and including the date of the payment; *provided, however*, in no event shall Lessee be obligated to pay a sum of late charge and interest higher than the maximum legal rate then in effect.

**Section 4.07. Holdover.** If Lessee remains in possession of the Property after the expiration of the term hereof, Lessee, at Lessor's option and within Lessor's sole discretion, may be deemed a tenant on a month-to-month basis and shall continue to pay Rentals and other Monetary Obligations in the amounts herein provided, except that the Base Monthly Rental shall be automatically increased to one hundred twenty-five percent (125%) of the last Base Monthly Rental payable under this Lease, and Lessee shall comply with all the terms of this Lease; *provided that* nothing herein nor the acceptance of Rental by Lessor shall be deemed a consent to such holding over. Lessee shall defend (using counsel chosen by Lessee and approved by Lessor), indemnify, protect and hold the Indemnified Parties harmless from and against any and all Losses resulting from Lessee's failure to surrender possession upon the expiration of the Lease Term.

**Section 4.08. Guaranty.** On or before the execution of this Lease, Lessee shall cause Guarantor to execute and deliver to Lessor the Guaranty.

**Section 4.09. Security Deposit.**

(a) Lessee has paid Lessor upon the delivery of this Lease and the New Building Lease a single security deposit in the total amount of \$250,000 (the "Security Deposit") as security for the full and faithful performance by Lessee of each and every term, provision, covenant and condition of this Lease and the New Building Lease. Upon the occurrence of an Event of Default (pursuant to this Lease or the New Building Lease), Lessor may, but shall not be required to, use, apply or retain the whole or any part of the Security Deposit for the payment of any Monetary Obligation (including Rental) in default or for any other sum which Lessor may expend or be required to expend by reason of Lessee's default, including any damages or deficiency in the reletting of the Property, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Lessor; *provided, however*, that each time Lessor so uses any amount of the Security Deposit, (a) Lessee shall have fifteen (15) days to replenish the Security Deposit as described in this Section 4.09(a) before such deficiency begins to bear interest at the Default Rate (which shall thereafter accrue until the Security Deposit has been replenished), and (b) Lessee shall, within thirty (30) days after Lessor's written request therefor, deposit additional money with Lessor sufficient to restore the Security Deposit to a sum equal to the original amount of the Security Deposit (or the reduced amount of the Security Deposit if reduced pursuant to Section 4.09(c), below).

(b) If Lessee shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease and the New Building Lease, the Security Deposit, or any balance thereof, shall be returned to Lessee after the time fixed as the expiration of the Lease Term of both this Lease and the New Building Lease and after the removal of Lessee and surrender of possession of the Property and the New Building Area to Lessor. In the absence of evidence satisfactory to Lessor of an assignment of the right to receive the Security Deposit, or the remaining balance thereof, Lessor may return the security to the original Lessee, regardless of one or more assignments of this Lease and/or the New Building Lease. In case of a sale or transfer of the fee of the Property and the New Building Area, or any cessation of Lessor's interest therein (including in connection with a Lessor bankruptcy or a Lessor default under any of its loans), whether in whole or in part, Lessor shall pay over any unapplied part of the Security Deposit to the succeeding owner of the Property and/or the New Building Area and from and after such payment Lessor shall be relieved of all liability with respect thereto so long as such succeeding owner acknowledges receipt of the Security Deposit (or any remaining portion thereof), in writing, and a copy of such writing is provided to Lessee. The provisions of the preceding sentence shall apply to every subsequent sale or transfer of the fee of the Property and/or the New Building Area, and any successor of Lessor may, upon a sale, transfer or other cessation of the interest of such successor in the Property and/or the New Building Area, whether in whole or in part, pay over any unapplied part of the Security Deposit to the successor owner of the Property and/or the New Building Area and shall thereupon be relieved of all liability with respect thereto so long as such succeeding owner acknowledges receipt of the Security Deposit (or any remaining portion thereof), in writing, and a copy of such writing is provided to Lessee.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

The representations and warranties of each party contained in this Article V are being made to induce the other party to enter into this Lease, and the parties have relied, and will continue to rely, upon such representations and warranties.

**With respect to Sections 5.01 through 5.07, Lessee represents and warrants to Lessor as follows:**

**Section 5.01. Organization, Authority and Status of Lessee.** Lessee has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation and is qualified as a foreign corporation to do business in any jurisdiction where such qualification is required. All necessary and appropriate action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and of the other documents, instruments and agreements provided for herein. Lessee is not, and if Lessee is a “disregarded entity,” the owner of such disregarded entity is not, a “nonresident alien,” “foreign corporation,” “foreign partnership,” “foreign trust,” “foreign estate,” or any other “person” that is not a “United States Person” as those terms are defined in the Code and the regulations promulgated thereunder. The Person who has executed this Lease on behalf of Lessee is duly authorized to do so.

**Section 5.02. Enforceability.** This Lease constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

**Section 5.03. Litigation.** There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving any Lessee Entity or the Property before any arbitrator or Governmental Authority which might reasonably result in any Material Adverse Effect.

**Section 5.04. Absence of Breaches or Defaults.** Lessee is not in default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property or any of Lessee’s property is subject or bound, which has had, or could reasonably be expected to result in, a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property or any of Lessee’s property is subject or bound.

**Section 5.05. Compliance with OFAC Laws.** None of the Lessee Entities, and no individual or entity owning directly or indirectly any interest in any of the Lessee Entities, is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws or is otherwise in violation of any of the OFAC Laws; *provided, however*, that the representation contained in this sentence shall not apply to any Person to the extent such Person’s interest is in or through a U.S. Publicly Traded Entity.

**Section 5.06. Solvency.** There is no contemplated, pending or threatened Insolvency Event or similar proceedings, whether voluntary or involuntary, affecting Lessee or any Lessee Entity. Lessee does not have unreasonably small capital to conduct its business.

**Section 5.07. Ownership.** None of (i) Lessee, (ii) any Affiliate of Lessee, or (iii) any Person owning ten percent (10%) or more of Lessee, owns, directly or indirectly, ten percent (10%) or more of the total voting power or total value of capital stock in STORE Capital Corporation.

**With respect to Sections 5.08 through 5.13, Lessor represents and warrants to Lessee as follows:**

**Section 5.08. Organization, Authority and Status of Lessor.** Lessor has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation and is qualified as a foreign corporation to do business in Colorado. All necessary and appropriate action has been taken to authorize the execution, delivery and performance by Lessor of this Lease and of the other documents, instruments and agreements provided for herein. Lessor is not, and if Lessor is a "disregarded entity," the owner of such disregarded entity is not, a "nonresident alien," "foreign corporation," "foreign partnership," "foreign trust," "foreign estate," or any other "person" that is not a "United States Person" as those terms are defined in the Code and the regulations promulgated thereunder. The Person who has executed this Lease on behalf of Lessor is duly authorized to do so.

**Section 5.09. Enforceability.** This Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

**Section 5.10. Litigation.** There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving any Lessor Entity or the Property before any arbitrator or Governmental Authority which might reasonably result in any Material Adverse Effect.

**Section 5.11. Absence of Breaches or Defaults.** Lessor is not in default under any document, instrument or agreement to which Lessor is a party or by which Lessor, the Property or any of Lessor's property is subject or bound, which has had, or could reasonably be expected to result in, a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessor is a party or by which Lessor, the Property or any of Lessor's property is subject or bound.

**Section 5.12. Compliance with OFAC Laws.** None of Lessor or any individual or entity owning directly or indirectly any interest in any of Lessor, is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws or is otherwise in violation of any of the OFAC Laws; *provided, however*, that the representation contained in this sentence shall not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

**Section 5.13. Solvency.** There is no contemplated, pending or threatened Insolvency Event or similar proceedings, whether voluntary or involuntary, affecting Lessor or any Lessor Entity. Lessor does not have unreasonably small capital to conduct its business.

## ARTICLE VI

### TAXES AND ASSESSMENTS; UTILITIES; INSURANCE

#### Section 6.01. Taxes.

(a) **Payment.** Subject to the provisions of Section 6.01(b) below, Lessee shall pay, prior to the earlier of delinquency or the accrual of interest on the unpaid balance, all taxes and assessments of every type or nature assessed against or imposed upon the Property, Lessee or Lessor during the Lease Term related to or arising out of this Lease and the activities of the parties hereunder, including without limitation, (i) all taxes or assessments upon the Property or any part thereof and upon any personal property, trade fixtures and improvements located on the Property, whether belonging to Lessor or Lessee, or any tax or charge levied in lieu of such taxes and assessments; (ii) all taxes, charges, license fees and or similar fees imposed by reason of the use of the Property by Lessee; (iii) all excise, franchise, transaction, privilege, license, sales, use and other taxes upon the Rental or other Monetary Obligations hereunder, the leasehold estate of either party or the activities of either party pursuant to this Lease; and (iv) all franchise, privilege or similar taxes of Lessor calculated on the value of the Property or on the amount of capital apportioned to the Property. Notwithstanding anything in clauses (i) through (iv) to the contrary, Lessee shall not be obligated to pay or reimburse Lessor for any taxes based on the net income of Lessor.

(b) **Right to Contest.** Within thirty (30) days after each tax and assessment payment is required by this Section 6.01 to be paid, Lessee shall provide Lessor with evidence reasonably satisfactory to Lessor that taxes and assessments have been timely paid by Lessee. In the event Lessor receives a tax bill, Lessor shall use commercially reasonable efforts to forward said bill to Lessee within fifteen (15) days of Lessor's receipt thereof. Lessee may, at its own expense, contest or cause to be contested (in the case of any item involving more than \$10,000, after prior written notice to Lessor, which shall be given within fifteen (15) days of Lessee's determination to contest any matter as permitted herein), by appropriate legal proceedings conducted in good faith and with due diligence, any above-described item or lien with respect thereto, provided that (i) neither the Property nor any interest therein would be in any danger of being sold, forfeited or lost by reason of such proceedings; (ii) no Event of Default has occurred and is continuing; (iii) if and to the extent required by the applicable taxing authority and/or Lessor, Lessee posts a bond or takes other steps acceptable to such taxing authority and/or Lessor that removes such lien or stays enforcement thereof; (iv) Lessee shall promptly provide Lessor with copies of all notices received or delivered by Lessee and filings made by Lessee in connection with such proceeding; and (v) upon termination of such proceedings, it shall be the obligation of Lessee to pay the amount of any such tax and assessment or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including attorneys' fees and disbursements), interest, penalties or other liabilities in connection therewith. Lessor shall at the request of Lessee, execute or join in the execution of any instruments or documents necessary in connection with such contest or proceedings, but Lessor shall incur no cost or obligation thereby.

**Section 6.02. Utilities.** Lessee shall contract, in its own name, for and pay when due all charges for the connection and use of water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Property during the Lease Term. Under no circumstances shall Lessor be responsible for any interruption of any utility service, unless caused by Lessor's gross negligence or willful misconduct.

**Section 6.03. Insurance.**

(a) **Coverage.** Throughout the Lease Term, Lessee shall maintain, with respect to the Property, at its sole expense, the following types and amounts of insurance, in addition to such other insurance as Lessor may reasonably require from time to time:

(i) Insurance against loss or damage to real property and personal property under an "all risk" or "special form" insurance policy, which shall include coverage against all risks of direct physical loss, including but not limited to loss by fire, lightning, wind, terrorism, and other risks normally included in the standard ISO special form (and shall also include National Flood and Excess Flood insurance if the Property is located in Flood Zone A or Flood Zone V, as designated by FEMA, or otherwise located in a flood zone area identified by FEMA as a 100-year flood zone or special hazard area, and earthquake insurance if the Property is located within a moderate to high earthquake hazard zone as determined by an approved insurance company set forth in Section 6.03(b)(x) below). Such policy shall also include soft costs, a joint loss agreement, coverage for ordinance or law covering the loss of value of the undamaged portion of the Property, costs to demolish and the increased costs of construction if any of the improvements located on, or the use of, the Property shall at any time constitute legal non-conforming structures or uses. Ordinance or law limits shall be in an amount equal to the full replacement cost for the loss of value of the undamaged portion of the Property and no less than 25% of the replacement cost for costs to demolish and the increased cost of construction, or in an amount otherwise specified by Lessor. Such insurance shall be in amounts not less than 100% of the full insurable replacement cost values (without deduction for depreciation), with an agreed amount endorsement or without any coinsurance provision, and with sublimits satisfactory to Lessor, as determined from time to time at Lessor's request but not more frequently than once in any 12-month period.

(ii) Commercial general liability insurance, including products and completed operation liability, covering Lessor and Lessee against bodily injury liability, property damage liability and personal and advertising injury, including without limitation any liability arising out of the ownership, maintenance, repair, condition or operation of the Property or adjoining ways, streets, parking lots or sidewalks. Such insurance policy or policies shall contain a broad form contractual liability endorsement under which the insurer agrees to insure Lessee's obligations under Article X hereof to the extent insurable, and a "severability of interest" clause or endorsement which precludes the insurer from denying the claim of Lessee or Lessor because of the negligence or other acts of the other, shall be in amounts of not less than \$10,000,000 per occurrence for bodily injury and property damage, and \$10,000,000 general aggregate per location, or such higher limits as Lessor may reasonably require from time to time, and shall be of form and substance satisfactory to Lessor. Such limits of insurance can be acquired through Commercial General liability and Umbrella liability policies.

(iii) Workers' compensation and Employers Liability insurance with statutorily mandated limits covering all persons employed by Lessee on the Property in connection with any work done on or about the Property for which claims for death or bodily injury could be asserted against Lessor, Lessee or the Property.

(iv) Business interruption insurance including Rental Value Insurance payable to Lessor at all locations for a period of not less than twelve (12) months. Such insurance is to follow the form of the real property "all risk" or "special form" coverage and is not to contain a co-insurance clause. Such insurance is to have a minimum of 180 days of extended period of indemnity.

(v) Automobile liability insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of \$2,000,000 per occurrence. The limits of liability can be provided in a combination of an automobile liability policy and an umbrella liability policy.

(vi) Comprehensive Boiler and Machinery or Equipment Breakdown Insurance against loss or damage from explosion of any steam or pressure boilers or similar apparatus, if any, and other building equipment including HVAC units located in or about the Property and in an amount equal to the lesser of 25% of the 100% replacement cost of the Property or \$5,000,000.

(b) **Insurance Provisions.** All insurance policies shall:

(i) provide for a waiver of subrogation by the insurer as to claims against Lessor, its employees and agents;

(ii) be primary and provide that any "other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by Lessor and the insurance policy shall not be brought into contribution with insurance maintained by Lessor;

(iii) contain deductibles not to exceed \$100,000;

(iv) contain a standard non-contributory mortgagee clause or endorsement in favor of any Lender designated by Lessor;

(v) provide that the policy of insurance shall not be terminated, cancelled or materially amended (such that the policy is no longer in compliance with the requirements of this Lease) without at least thirty (30) days' prior written notice from Lessee to Lessor and to any Lender covered by any standard mortgage clause or endorsement;

(vi) provide that the insurer shall not have the option to restore the Property if Lessor elects to terminate this Lease in accordance with the terms hereof;

(vii) be in amounts sufficient at all times to satisfy any coinsurance requirements thereof;

(viii) except for workers' compensation insurance referred to in Section 6.03(a)(iii) above and automobile liability insurance referred to in Section 6.03(a)(v) above, name Lessor and any Lessor Affiliate or Lender requested by Lessor, as an "additional insured" with respect to liability insurance, and as an "additional named insured" or "additional insured" with respect to real property and rental value insurance, as appropriate and as their interests may appear;

(ix) be evidenced by delivery to Lessor and any Lender designated by Lessor of an Acord Form 28 for property, business interruption and boiler & machinery coverage (or any other form requested by Lessor) and an Acord Form 25 for commercial general liability, workers' compensation and umbrella coverage (or any other form requested by Lessor); provided that in the event that either such form is no longer available, such evidence of insurance shall be in a form reasonably satisfactory to Lessor and any Lender designated by Lessor; and

(x) be issued by insurance companies licensed to do business in the states where the Property is located and which are rated no less than A-X by Best's Insurance Guide or are otherwise approved by Lessor.

(c) **Additional Obligations.** It is expressly understood and agreed that (i) if any insurance required hereunder, or any part thereof, shall expire, be withdrawn, become void by breach of any condition thereof by Lessee, or become void or in jeopardy by reason of the failure or impairment of the capital of any insurer, Lessee shall immediately obtain new or additional insurance reasonably satisfactory to Lessor and any Lender designated by Lessor; (ii) the minimum limits of insurance coverage set forth in this Section 6.03 shall not limit the liability of Lessee for its acts or omissions as provided in this Lease; (iii) Lessee shall procure policies for all insurance for periods of not less than one year and shall provide to Lessor and any servicer or Lender of Lessor certificates of insurance or, upon Lessor's request, a redacted copy of insurance policies evidencing that insurance satisfying the requirements of this Lease is in effect at all times; (iv) Lessee shall pay as they become due all premiums for the insurance required by this Section 6.03; (v) in the event that Lessee fails to comply with any of the requirements set forth in this Section 6.03, within ten (10) Business Days of the giving of written notice by Lessor to Lessee, (A) Lessor shall be entitled to procure such insurance; and (B) any sums expended by Lessor in procuring such insurance shall be Additional Rental and shall be repaid by Lessee, together with interest thereon at the Default Rate, from the time of payment by Lessor until fully paid by Lessee within fifteen (15) days of written demand therefor by Lessor; and (vi) Lessee shall maintain all insurance policies required in this Section 6.03 not to be cancelled, invalidated or suspended on account of the conduct of Lessee, its officers, directors, managers, members, employees or agents, or anyone

acting for Lessee or any subtenant or other occupant of the Property, and shall comply with all policy conditions and warranties at all times to avoid a forfeiture of all or a part of any insurance payment.

(d) **Blanket Policies.** Notwithstanding anything to the contrary in this Section 6.03, any insurance which Lessee is required to obtain pursuant to this Section 6.03 may be carried under a "blanket" policy or policies covering other properties or liabilities of Lessee provided that such "blanket" policy or policies otherwise comply with the provisions of this Section 6.03.

**Section 6.04. Tax Impound.** Upon the occurrence of a monetary Event of Default and with respect to each Event of Default, in addition to any other remedies, Lessor may require Lessee to pay to Lessor on the first day of each month the amount that Lessor reasonably estimates will be necessary in order to accumulate with Lessor sufficient funds in an impound account (which shall not be deemed a trust fund) (the "Reserve") for Lessor to pay any and all real estate taxes ("Real Estate Taxes") for the Property for the ensuing twelve (12) months, or, if due sooner, Lessee shall pay the required amount immediately upon Lessor's demand therefor. Lessor shall, upon prior written request of Lessee, provide Lessee with evidence reasonably satisfactory to Lessee that payment of the Real Estate Taxes was made in a timely fashion. In the event that the Reserve does not contain sufficient funds to timely pay any Real Estate Taxes, upon Lessor's written notification thereof, Lessee shall, within five (5) Business Days of such notice, provide funds to Lessor in the amount of such deficiency. Lessor shall pay or cause to be paid directly to the applicable taxing authorities any Real Estate Taxes then due and payable for which there are funds in the Reserve; *provided, however,* that in no event shall Lessor be obligated to pay any Real Estate Taxes in excess of the funds held in the Reserve, and Lessee shall remain liable for any and all Real Estate Taxes, including fines, penalties, interest or additional costs imposed by any taxing authority (unless incurred as a result of Lessor's failure to timely pay Real Estate Taxes for which it had funds in the Reserve). Lessee shall reasonably cooperate with Lessor in assuring that the Real Estate Taxes are timely paid. Lessor may deposit all Reserve funds in accounts insured by any federal or state agency and may commingle such funds with other funds and accounts of Lessor. Interest or other gains from such funds, if any, shall be the sole property of Lessor. During the continuation of an Event of Default, and provided any Real Estate Taxes then due and payable have been paid, in addition to any other remedies, Lessor may apply all impounded funds in the Reserve against any sums due from Lessee to Lessor. Lessor shall give to Lessee an annual accounting showing all credits and debits to and from such impounded funds received from Lessee.

## ARTICLE VII

### MAINTENANCE; ALTERATIONS

#### Section 7.01. Condition of Property; Maintenance.

(a) Lessee hereby accepts the Property "AS IS" and "WHERE IS" with no representation or warranty of Lessor as to the condition thereof. Unless necessitated by Lessor's gross negligence or willful misconduct, Lessee shall, at its sole cost and expense, be responsible for (i) keeping all of the building, structures and improvements erected on the Property in good order and repair, free from actual or constructive waste; (ii) the repair or reconstruction of any building, structures or improvements erected on the Property damaged or destroyed by a Casualty; (iii) subject to Section 7.02, making all necessary structural, non-structural, exterior and interior repairs and replacements to any building, structures or improvements erected on the Property; (iv) operating, remodeling, updating and modernizing the Property in accordance with those standards adopted from time to time on a system-wide basis for the Permitted Facility; (v) (A) ensuring that no party encroaches upon the Property, (B) protecting, defending (using counsel chosen by Lessee and approved by Lessor), indemnifying, releasing and holding the Indemnified Parties harmless from and against any and all claims and Losses arising out of or in any way relating to any encroachments and/or activities upon the Property caused by any Person; and (C) prosecuting any claims that Lessee seeks to bring against any Person relating to Lessee's use and possession of the Property; and (vi) paying all operating costs of the Property in the ordinary course of business. Lessee waives any right to require Lessor to maintain, repair or rebuild all or any part of the Property or make repairs at the expense of Lessor pursuant to any Legal Requirements at any time in effect, unless such maintenance, repair, or rebuilding is necessitated by Lessor's gross negligence or willful misconduct.

(b) Notwithstanding anything set forth in Section 7.01(a) above, Lessor shall pay the cost of any Required Capital Improvement during the last five (5) years of the Lease Term in excess of \$50,000 cumulative on an annual basis ("Expenditure Cap") up to the actual cost of such Required Capital Improvement ("Lessor Expenditure"). Lessee shall reimburse Lessor such Lessor Expenditure through an increase in Base Annual Rental in an annual amount equal to the Lessor Expenditure divided by the Useful Life (as determined in Lessor's reasonable discretion) of such Required Capital Improvement. By way of example, if a roof replacement costs \$200,000 and has a Useful Life of 20 years, Lessee shall reimburse Lessor through an increase in Base Annual Rental equal to \$7,500 per year ( $1/20 \times \$150,000$ ). For purposes of this paragraph, a "*Required Capital Improvement*" shall mean a permanent structural change to the Property or the restoration of some aspect of the Property that will either enhance the Property's overall value or increase its useful life and that is required to be completed by Lessee to remain in compliance with Section 7.01(a), as reasonably determined and agreed upon by Lessee and Lessor.

**Section 7.02. Alterations and Improvements.** During the Lease Term, Lessee shall not alter the exterior, structural, plumbing or electrical elements of the Property in any manner without the consent of Lessor, which consent shall not be unreasonably withheld or conditioned; *provided, however*, Lessee may undertake nonstructural alterations to the Property, individually, costing less than \$150,000 (such limit shall increase by 2.0% each Lease year) without Lessor's prior written consent. If Lessor's consent is required hereunder and Lessor consents to the making of any such

alterations, the same shall be made by Lessee at Lessee's sole expense by a licensed contractor and according to plans and specifications approved by Lessor and subject to such other conditions as Lessor shall reasonably require. Any work at any time commenced by Lessee on the Property shall be prosecuted diligently to completion, shall be of good workmanship and materials and shall comply fully with all the terms of this Lease and all Legal Requirements. Upon completion of any alterations individually costing \$150,000 or more, Lessee shall promptly provide Lessor with evidence of full payment to all laborers and materialmen contributing to the alterations. Additionally, upon completion of any alterations, Lessee shall promptly provide Lessor with (a) an architect's certificate certifying the alterations to have been completed in conformity with the plans and specifications (if the alterations are of such a nature as would require the issuance of such a certificate from the architect); (b) a certificate of occupancy (if the alterations are of such a nature as would require the issuance of a certificate of occupancy); and (c) any other documents or information reasonably requested by Lessor. Lessee shall keep the Property free from any liens arising out of any work performed on, or materials furnished to, the Property. Lessee shall execute and file or record, as appropriate, a "Notice of Non-Responsibility," or any equivalent notice permitted under applicable Law in the state where the Property is located which provides that Lessor is not responsible for the payment of any costs or expenses relating to the additions or alterations. Any addition to or alteration of the Property shall be deemed a part of the Property and belong to Lessor, and Lessee shall execute and deliver to Lessor such instruments as Lessor may reasonably require to evidence the ownership by Lessor of such addition or alteration.

**Section 7.03. Encumbrances.** During the Lease Term, Lessor shall have the right to grant easements on, over, under and above the Property without the prior consent of Lessee (but with prior notice to Lessee), provided that such easements will not adversely interfere with Lessee's use of the Property. Lessee shall comply with and perform all obligations of Lessor under all easements, declarations, covenants, restrictions and other items of record now or hereafter encumbering the Property. Without Lessor's prior written consent, Lessee shall not grant any easements on, over, under or above the Property.

## ARTICLE VIII

### USE OF THE PROPERTY; COMPLIANCE

#### Section 8.01. Use and "Go Dark" Rights.

(a) **Use.** During the Lease Term, the Property shall be used solely for the operation of a Permitted Facility. Except during periods when the Property is untenable due to Casualty or Condemnation (and provided that Lessee continues to strictly comply with the other terms and conditions of this Lease), Lessee shall at all times during the Lease Term occupy the Property and shall diligently operate its business on the Property. In the event that Lessee shall change the use of the Property, only as may be expressly permitted herein or consented to by Lessor in writing, Lessee shall provide Lessor with written notice of any such change.

(b) **“Go Dark” Right.** Notwithstanding any provision contained herein, Lessee shall not be in default under this Section 8.01 until Lessee fails to continue to materially operate its business at the Property (excluding instances of Casualty, Condemnation and Force Majeure) for more than one hundred eighty (180) consecutive days. Thereafter, Lessee shall: (i) re-open the Property; or (ii) exercise Lessee’s assignment or subletting rights as permitted under this Lease. Notwithstanding any provision contained in this Section 8.01(b), (A) Lessee shall provide Lessor with written notice at least ten (10) days prior to the Property “going dark,” and (B) the terms and provisions of this Lease and Lessee’s obligations hereunder shall remain in full force and effect during any “go dark” period, and (C) in no event shall Lessee “go dark” in any manner that would violate any Permitted Encumbrances in any material respect or give a third party any right to acquire title to the Property as a result of a Property “going dark.”

**Section 8.02. Compliance.** Lessee’s use and occupation of the Property, and the condition thereof, shall, at Lessee’s sole cost and expense, comply fully with all Legal Requirements and all restrictions, covenants and encumbrances of record, and any owner obligations under such Legal Requirements, or restrictions, covenants and encumbrances of record, with respect to the Property, in either event, the failure with which to comply could have a Material Adverse Effect. Without in any way limiting the foregoing provisions, Lessee shall comply with all Legal Requirements relating to anti-terrorism, trade embargos, economic sanctions, Anti-Money Laundering Laws, and the Americans with Disabilities Act of 1990, as such act may be amended from time to time, and all regulations promulgated thereunder, as it affects the Property now or hereafter in effect. Lessee shall obtain, maintain and comply with all required licenses and permits, both governmental and private, to use and operate the Properties as Permitted Facilities. Upon Lessor’s written request from time to time during the Lease Term, Lessee shall certify in writing to Lessor that Lessee’s representations, warranties and obligations under Section 5.05 and this Section 8.02 remain true and correct and have not been breached. Lessee shall immediately notify Lessor in writing if any of such representations, warranties or covenants are no longer true or have been breached or if Lessee has a reasonable basis to believe that they may no longer be true or have been breached. In connection with such an event, Lessee shall comply with all Legal Requirements and directives of Governmental Authorities and, at Lessor’s request, provide to Lessor copies of all notices, reports and other communications exchanged with, or received from, Governmental Authorities relating to such an event. Lessee shall also reimburse Lessor for all Costs incurred by Lessor in evaluating the effect of such an event on the Property and this Lease, in obtaining any necessary license from Governmental Authorities as may be necessary for Lessor to enforce its rights under the Transaction Documents, and in complying with all Legal Requirements applicable to Lessor as the result of the existence of such an event and for any penalties or fines imposed upon Lessor as a result thereof. Lessee will use its reasonable efforts to prevent any act or condition to exist on or about the Property that will materially increase any insurance rate thereon, except when such acts are required in the normal course of its business and Lessee shall pay for such increase. Lessee agrees that it will defend (using counsel chosen by Lessee and approved by Lessor), indemnify and hold harmless the Indemnified Parties from and against any and all Losses caused by, incurred or resulting from Lessee’s failure to comply with its obligations under this Section.

**Section 8.03. Environmental.**

**(a) Covenants.**

(i) Lessee covenants to Lessor during the Lease Term, subject to the limitations of subsection (ii) below, as follows:

(A) All uses and operations on or of the Property, whether by Lessee or any other Person invited by Lessee, shall be in compliance with all Environmental Laws and permits issued pursuant thereto.

(B) There shall be no Releases by Lessee or its invitees in, on, under or from the Property, except in Permitted Amounts.

(C) There shall be no Hazardous Materials or Regulated Substances in, on or under the Property brought on by Lessee or its invitees, except in Permitted Amounts. Above and below ground storage tanks shall be properly permitted and only used as permitted.

(D) Lessee shall keep the Property or cause the Property to be kept free and clear of all Environmental Liens, whether due to any act or omission of Lessee or any other Person.

(E) Lessee shall not act or fail to act or allow any other tenant, occupant, guest, customer or other user of the Property to act or fail to act in any way that (1) materially increases a risk to human health or the environment, (2) poses an unreasonable or unacceptable risk of harm to any Person or the environment (whether on or off the Property), (3) has a Material Adverse Effect, (4) is contrary to any material requirement set forth in the insurance policies maintained by Lessee or Lessor, (5) constitutes a public or private nuisance or constitutes waste, (6) violates any covenant, condition, agreement or easement applicable to the Property, or (7) would result in any reopening or reconsideration of any prior investigation or causes a new investigation by a Governmental Authority having jurisdiction over the Property.

(F) Lessee shall, at its sole cost and expense, reasonably cooperate in all activities pursuant to this Section 8.04, including but not limited to providing all relevant information and making knowledgeable persons available for interviews.

(ii) Notwithstanding any provision of this Lease to the contrary, an Event of Default shall not be deemed to have occurred as a result of the failure of Lessee to satisfy any one or more of the covenants set forth in subsections (A) through (E) above provided that Lessee shall be in compliance with the requirements of any Governmental Authority with respect to the Remediation of any Release at the Property.

(b) **Notification Requirements.** Lessee shall immediately notify Lessor in writing upon Lessee obtaining actual knowledge of (i) any Releases or Threatened Releases in, on, under or from the Property other than in Permitted Amounts, or migrating towards the Property; (ii) any non-compliance with any Environmental Laws related in any way to the Property; (iii) any actual or potential Environmental Lien or activity use limitation; (iv) any required or proposed Remediation of environmental conditions relating to the Property required by applicable Governmental Authorities; and (v) any written or oral notice or other communication of which Lessee becomes aware from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials, Regulated Substances or above or below ground storage tanks, or Remediation thereof at or on the Property, other than in Permitted Amounts, possible liability of any Person relating to the Property pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Section. Lessee shall, upon Lessor's written request, deliver to Lessor a certificate stating that Lessee is and has been in full compliance with all of the environmental representations, warranties and covenants in this Lease.

(c) **Remediation.** Unless necessitated as a result of Lessor's gross negligence or willful misconduct, Lessee shall, at its sole cost and expense, and without limiting any other provision of this Lease, effectuate any Remediation required by any Governmental Authority of any condition (including, but not limited to, a Release or Threatened Release) in, on, under or from the Property and take any other reasonable action deemed necessary by any Governmental Authority for protection of human health or the environment. Should Lessee fail to undertake any required Remediation in accordance with the preceding sentence, Lessor, after written notice to Lessee and Lessee's failure to immediately undertake such Remediation, shall be permitted to complete such Remediation, and all Costs incurred in connection therewith shall be paid by Lessee. Any Cost so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be due within thirty (30) days of invoice from Lessee to Lessor.

(d) **Indemnification.** Lessee shall, at its sole cost and expense, protect, defend (using counsel chosen by Lessee and approved by Lessor), indemnify, release and hold harmless each of the Indemnified Parties from and against any and all Losses, including, but not limited to, all Costs of Remediation (whether or not performed voluntarily), arising prior to the expiration or earlier termination of this Lease (including any holdover periods) and arising out of or in any way relating to any Environmental Laws, Hazardous Materials, Regulated Substances, above or below ground storage tanks, or other environmental matters concerning the Property. It is expressly understood and agreed that Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease for any reason.

(e) **Right of Entry.** In the event that Lessor has a reasonable basis to believe that a Release or a violation of any Environmental Law has occurred, Lessor and any other Person designated by Lessor, including but not limited to any receiver, any representative of a Governmental Authority, and any environmental consultant, shall have the right, but not the obligation, to enter upon the Property at all reasonable times to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lessor's reasonable discretion) and taking samples of soil, groundwater or other water, air, or building materials, and

conducting other invasive testing. Lessee shall reasonably cooperate with and provide access to Lessor and any other Person designated by Lessor. Any such assessment or investigation shall be at Lessee's sole cost and expense, to the extent such investigation was necessitated as a result of a breach of Lessee's obligations under this Section 8.03.

(f) **Survival.** The obligations of Lessee and the rights and remedies of Lessor under this Section 8.03 shall survive the termination, expiration and/or release of this Lease; *provided, however*, if Lessee provides Lessor with a Phase I environmental report with respect to any Property from a vendor approved by Lessor in its reasonable discretion, dated within thirty (30) days of the expiration or sooner termination of this Lease, which report is in all respects acceptable to Lessor (in its reasonable discretion), then in such event Lessee's obligations under this Section 8.03 with respect to such Property shall only survive the expiration or earlier termination of this Lease for a period of seven (7) years.

## ARTICLE IX

### ADDITIONAL COVENANTS

**Section 9.01. Performance at Lessee's Expense.** Lessee acknowledges and confirms that Lessor may collect its reasonable third-party out-of-pocket attorneys' fees, costs and expenses in connection with (a) any modification, amendment and termination of this Lease requested by Lessee (and not already contemplated in this Lease); (b) any release or substitution of Property requested by Lessee; (c) the procurement of consents, waivers and approvals with respect to the Property or any matter related to this Lease requested by Lessee; (d) the review of any assignment or sublease or proposed assignment or sublease or the preparation or review of any subordination or non-disturbance agreement requested by Lessee; (e) the collection, maintenance and/or disbursement of reserves created under this Lease or the other Transaction Documents (following an Event of Default); and (f) inspections reasonably required to make certain determinations under this Lease or the other Transaction Documents following Lessor's reasonable belief of a breach under this Lease or any other Transaction Documents.

**Section 9.02. Inspection.** Lessor and its authorized representatives shall have the right, at all reasonable times and upon giving reasonable prior notice (except in the event of an emergency, in which case no prior notice shall be required), to enter the Property or any part thereof and inspect the same. Except in the event of an emergency, any entry by Lessor under this Lease shall be subject to and in compliance with Lessee's security policies provided in writing to Lessor. Lessee hereby waives any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Property and any other loss occasioned by such entry, but, subject to Section 10.01, excluding damages arising as a result of the gross negligence or willful misconduct of Lessor.

### Section 9.03. Financial Information.

(a) **Financial Reporting.** From and after the Effective Date and unless or until Guarantor goes private, and subject to Section 9.03(c) below, within fourteen (14) Business Days from the date Guarantor files its annual Form 10-K, Lessee shall deliver to Lessor copies of Lessee's income statement and balance sheet for the prior fiscal year.

(b) **Financial Reporting if Guarantor Goes Private.** In the event that Guarantor ever goes private, and subject to Section 9.03(c) below, then within forty five (45) days after the end of each fiscal quarter and within one hundred twenty (120) days after the end of each fiscal year of Lessee and Guarantor, Lessee shall deliver to Lessor (i) complete consolidated financial statements for Guarantor and separate financial statements for Lessee, including a balance sheet, profit and loss statement, statement of stockholders' equity and statement of cash flows and all other related schedules for the fiscal period then ended, such statements to detail separately interest expense, income taxes, non-cash expenses, non-recurring expenses, operating lease expense and current portion of long-term debt – capital leases; and (ii) income statements for the business at the Property. All such financial statements shall be prepared in accordance with GAAP, and shall be certified to be accurate and complete by an officer or director of Lessee and Guarantor. In the event that Lessee's business at the Property is ordinarily consolidated with other business for financial statements purposes, a separate profit and loss statement shall be provided showing separately the sales, profits and losses pertaining to the Property with interest expense, income taxes, non-cash expenses, non-recurring expenses and operating lease expense (rent), with the basis for allocation of overhead or other charges being clearly set forth therein. The financial statements delivered to Lessor pursuant to this paragraph need not be audited, but Lessee shall deliver to Lessor copies of any audited financial statements of the Lessee Reporting Entities which may be prepared, as soon as they are available.

(c) **Confidentiality.** Notwithstanding anything to the contrary above or elsewhere in this Lease, Lessor hereby agrees, for itself and its Affiliates, to maintain confidentiality and not disclose Lessee's or Guarantor's financial information (but excluding matters of public record or matters generally known to the public) to third parties except (i) as may be required for reporting to any Governmental Authority or otherwise required by Law, (ii) in connection with a Securitization or related transaction, (iii) to a Lender, or to Lessor's employees, contractors, attorneys, accountants and other Persons on a "need to know" basis ("Lessor Parties"), or to a prospective purchaser of a Property so long as such Lessor Parties and any prospective purchaser are aware of, and agree to comply with, the confidentiality provisions of this Section, or (iv) with Lessee's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed).

**Section 9.04. OFAC Laws.** Upon receipt of notice or upon actual knowledge thereof, Lessee shall immediately notify Lessor in writing if any Person owning (directly or indirectly) any interest in any of the Lessee Entities, or any director, officer, shareholder, member, manager or partner of any of such holders is a Person whose property or interests are subject to being blocked under any of the OFAC Laws, or is otherwise in violation of any of the OFAC Laws, or is under investigation by any Governmental Authority for, or has been charged with, or convicted of, drug trafficking, terrorist-related activities or any violation of the Anti-Money Laundering Laws, has been assessed civil penalties under these or related Laws, or has had funds seized or forfeited in an action under these or related Laws; *provided, however*, that the covenant in this Section 9.04 shall

not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

**Section 9.05. Estoppel Certificate.** At any time, and from time to time, Lessee shall, promptly and in no event later than ten (10) Business Days after a request from Lessor or any Lender or mortgagee of Lessor, execute, acknowledge and deliver to Lessor or such Lender or mortgagee, as the case may be, a certificate in the form supplied by Lessor, certifying: (a) that Lessee has accepted the Property; (b) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (c) the commencement and expiration dates of the Lease Term; (d) the date to which the Rentals have been paid under this Lease and the amount thereof then payable; (e) whether there are then any existing defaults by Lessor in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (f) that no notice has been received by Lessee of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (g) the capacity of the Person executing such certificate, and that such Person is duly authorized to execute the same on behalf of Lessee; (h) that neither Lessor nor any Lender or mortgagee has actual involvement in the management or control of decision making related to the operational aspects or the day-to-day operation of the Property, including any handling or disposal of Hazardous Materials or Regulated Substances; and (i) any other information reasonably requested by Lessor or any Lender or mortgagee, as the case may be.

## ARTICLE X

### RELEASE AND INDEMNIFICATION

**Section 10.01. RELEASE AND INDEMNIFICATION.** LESSEE AGREES TO USE AND OCCUPY THE PROPERTY AT ITS OWN RISK AND HEREBY RELEASES LESSOR AND LESSOR'S AGENTS AND EMPLOYEES FROM ALL CLAIMS FOR ANY DAMAGE OR INJURY (SO LONG AS SUCH DID NOT RESULT FROM LESSOR'S OR LESSOR'S AGENTS' OR EMPLOYEES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) TO THE FULL EXTENT PERMITTED BY LAW. LESSEE AGREES THAT LESSOR SHALL NOT BE RESPONSIBLE OR LIABLE TO LESSEE OR LESSEE'S EMPLOYEES, AGENTS, CUSTOMERS, LICENSEES OR INVITEES FOR BODILY INJURY, PERSONAL INJURY OR PROPERTY DAMAGE OCCASIONED BY THE ACTS OR OMISSIONS OF ANY OTHER LESSEE OR ANY OTHER PERSON (EXCEPT FOR LESSOR'S AND LESSOR'S AGENTS AND EMPLOYEES GROSS NEGLIGENCE OR WILLFUL MISCONDUCT). LESSEE AGREES THAT ANY EMPLOYEE OR AGENT TO WHOM THE PROPERTY OR ANY PART THEREOF SHALL BE ENTRUSTED BY OR ON BEHALF OF LESSEE SHALL BE ACTING AS LESSEE'S AGENT WITH RESPECT TO THE PROPERTY OR ANY PART THEREOF, AND NEITHER LESSOR NOR LESSOR'S AGENTS, EMPLOYEES OR CONTRACTORS ("LESSOR PARTIES") SHALL BE LIABLE FOR ANY LOSS OF OR DAMAGE TO THE PROPERTY OR ANY PART THEREOF UNLESS SUCH IS CAUSED BY LESSOR PARTIES GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. LESSEE SHALL DEFEND (USING COUNSEL CHOSEN BY LESSEE AND APPROVED BY LESSOR), INDEMNIFY, PROTECT, AND HOLD HARMLESS EACH OF THE INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL LOSSES (EXCLUDING LOSSES SUFFERED BY AN INDEMNIFIED PARTY ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH

INDEMNIFIED PARTY) CAUSED BY, INCURRED OR RESULTING FROM LESSEE'S OPERATIONS OR BY LESSEE'S USE AND OCCUPANCY OF THE PROPERTY, WHETHER RELATING TO ITS ORIGINAL DESIGN OR CONSTRUCTION, LATENT DEFECTS, ALTERATION, MAINTENANCE, USE BY LESSEE OR ANY PERSON THEREON, SUPERVISION OR OTHERWISE, OR FROM ANY BREACH OF, DEFAULT UNDER, OR FAILURE TO PERFORM, ANY TERM OR PROVISION OF THIS LEASE BY LESSEE, ITS OFFICERS, EMPLOYEES, AGENTS OR OTHER PERSONS. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT LESSEE'S OBLIGATIONS UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE FOR ANY REASON WHATSOEVER.

FOR PURPOSES OF THIS LEASE, THE TERM "GROSS NEGLIGENCE" SHALL NOT INCLUDE GROSS NEGLIGENCE IMPUTED AS A MATTER OF LAW TO ANY OF THE INDEMNIFIED PARTIES SOLELY BY REASON OF LESSOR'S INTEREST IN THE PROPERTY OR LESSOR'S FAILURE TO ACT IN RESPECT OF MATTERS WHICH ARE OR WERE THE OBLIGATION OF LESSEE UNDER THIS LEASE.

## ARTICLE XI

### CONDEMNATION AND CASUALTY

**Section 11.01. Notification.** Lessee and Lessor shall promptly give the other party written notice of (a) any Condemnation of the Property, (b) the commencement of any proceedings or negotiations which might result in a Condemnation of the Property, and (c) any Casualty to the Property or any part thereof. Such notice shall provide a general description of the nature and extent of such Condemnation, proceedings, negotiations or Casualty, and shall include copies of any documents or notices received in connection therewith. Thereafter, Lessee shall promptly send Lessor copies of all notices, correspondence and pleadings relating to any such Condemnation, proceedings, negotiations or Casualty.

**Section 11.02. Total Condemnation.** In the event of a Condemnation of all or substantially all of the Property, and if as a result of such Condemnation: (i) access to the Property to and from the publicly dedicated roads adjacent to the Property as of the Effective Date is permanently and materially impaired such that Lessee no longer has access to such dedicated road; (ii) there is insufficient parking to operate the Property as a Permitted Facility under applicable Laws; or (iii) the Condemnation includes a portion of the building such that the remaining portion is unsuitable for use as a Permitted Facility, as determined by Lessee in the exercise of good faith business judgment (and Lessee provides to Lessor an officer's certificate executed by an officer of Lessee certifying to the same) (each such event, a "Total Condemnation"), then, in such event:

(a) **Termination of Lease.** On the date of the Total Condemnation, all obligations of either party hereunder shall cease; *provided, however,* that Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease and Lessee's obligation to pay Rental and all other Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination shall survive such termination. If the date of such Total Condemnation is other than the first day of a month, the Base Monthly Rental for the month in which such Total Condemnation occurs shall be apportioned based on the date of the Total Condemnation.

(b) **Net Award.** Subject to Section 11.07 below, Lessor shall be entitled to receive the entire Net Award in connection with a Total Condemnation without deduction for any estate vested in Lessee by this Lease, and Lessee hereby expressly assigns to Lessor all of its right, title and interest in and to every such Net Award and agrees that Lessee shall not be entitled to any Net Award or other payment for the value of Lessee's leasehold interest in this Lease.

**Section 11.03. Partial Condemnation or Casualty.** In the event of a Condemnation which is not a Total Condemnation (each such event, a "Partial Condemnation"), or in the event of a Casualty:

(a) **Net Awards.** Subject to Section 11.07 below, all Net Awards shall be paid to Lessor and, as applicable, made available to Lessee pursuant to Section 11.03(b)(ii) below.

(b) **Continuance of Lease.** This Lease shall continue in full force and effect upon the following terms:

(i) All Rental and other Monetary Obligations due under this Lease shall continue unabated (provided, however, that the parties acknowledge that business interruption insurance proceeds, including Rental Value Insurance proceeds, payable to and received by Lessor shall be applied towards Lessee's Rental obligations).

(ii) Lessee shall promptly commence and diligently prosecute restoration of the Property to the same condition, as nearly as practicable, as prior to the Partial Condemnation or Casualty as approved by Lessor. Subject to the terms and provisions of the Mortgage and upon the written request of Lessee (accompanied by evidence reasonably satisfactory to Lessor that such amount has been paid or is due and payable and is properly part of such costs, and that Lessee has complied with the terms of Section 7.02 in connection with the restoration), Lessor shall promptly make available in installments, subject to reasonable conditions for disbursement imposed by Lessor, an amount up to but not exceeding the amount of any Net Award received by Lessor with respect to such Partial Condemnation or Casualty. Prior to the disbursement of any portion of the Net Award with respect to a Casualty, Lessee shall provide evidence reasonably satisfactory to Lessor of the payment of restoration expenses by Lessee up to the amount of the insurance deductible applicable to such Casualty. Lessor shall be entitled to keep any portion of the Net Award which may be in excess of the cost of restoration, and Lessee shall bear all additional Costs of such restoration in excess of the Net Award.

**Section 11.04. Temporary Taking.** In the event of a Condemnation of all or any part of the Property for a temporary use (a "Temporary Taking"), this Lease shall remain in full force and effect without any reduction of Base Annual Rental, Additional Rental or any other Monetary Obligation payable hereunder. Except as provided below, Lessee shall be entitled to the entire Net Award for a Temporary Taking, unless the period of occupation and use by the condemning authorities shall extend beyond the date of expiration of this Lease, in which event the Net Award made for such Temporary Taking shall be apportioned between Lessor and Lessee as of the date of such expiration. At the termination of any such Temporary Taking, Lessee will, at its own cost and expense and pursuant to the provisions of Section 7.02, promptly commence and complete restoration of the Property.

**Section 11.05. Adjustment of Losses.** Any loss under any property damage insurance required to be maintained by Lessee shall be adjusted by Lessor and Lessee. Any Net Award relating to a Total Condemnation or a Partial Condemnation shall be adjusted by Lessor or, at Lessor's election, Lessee. Notwithstanding the foregoing or any other provisions of this Section 11.05 to the contrary, if at the time of any Condemnation or any Casualty or at any time thereafter an Event of Default shall have occurred and be continuing, Lessor is hereby authorized and empowered but shall not be obligated, in the name and on behalf of Lessee and otherwise, to file and prosecute Lessee's claim, if any, for a Net Award on account of such Condemnation or such Casualty and to collect such Net Award and apply the same to the curing of such Event of Default and any other then existing Event of Default under this Lease and/or to the payment of any amounts owed by Lessee to Lessor under this Lease, in such order, priority and proportions as Lessor in its discretion shall deem proper.

**Section 11.06. Lessee Obligation in Event of Casualty.** During all periods of time following a Casualty, Lessee shall take reasonable steps to ensure that the Property is secure and does not pose any risk of harm to any adjoining property and Persons (including owners or occupants of such adjoining property).

**Section 11.07. Lessee Awards and Payments.** Notwithstanding any provision contained in this Article XI, Lessee shall be entitled to claim and receive any award or payment from the condemning authority expressly granted for the taking of any personal property owned by Lessee (including the Personalty), any insurance proceeds with respect to any personal property owned by Lessee (including the Personalty), the interruption of its business and moving expenses (subject, however, to the provisions of Section 6.03(a)(iv) above), but only if such claim or award does not adversely affect or interfere with the prosecution of Lessor's claim for the Condemnation or Casualty, or otherwise reduce the amount recoverable by Lessor for the Condemnation or Casualty.

## ARTICLE XII

### DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES AND MEASURE OF DAMAGES

**Section 12.01. Event of Default.** Each of the following shall be an event of default by Lessee under this Lease (each, an "Event of Default"):

(a) if any representation or warranty of Lessee set forth in this Lease is false in any material respect when made, or if Lessee renders any materially false statement or account when made and such breach is not remedied within thirty (30) days of written notice thereof;

(b) if any Rental or other Monetary Obligation due under this Lease is not paid within three (3) Business Days after written notice of failure to pay the same; *provided, however*, that Lessor shall only be obligated to provide such written notice and the three (3) Business Day cure period shall only be available once in any twelve (12) month period; *provided, further*, that any delay in the payment of Rental as a result of a technical error in the wiring and/or automated clearinghouse process shall not constitute an Event of Default hereunder so long as the same is corrected within one (1) Business Day of the date Lessee receives notice thereof;

(c) if Lessee fails to pay, prior to delinquency, any taxes, assessments or other charges the failure of which to pay will result in the imposition of a lien against the Property;

(d) subject to Lessee's rights under Section 8.01(b), if Lessee vacates or abandons the Property;

(e) if there is an Insolvency Event affecting Lessee or the Guarantor;

(f) if Lessee fails to observe or perform any of the other covenants, conditions or obligations of Lessee in this Lease; *provided, however*, if any such failure does not involve the payment of any Monetary Obligation, is not willful or intentional, does not place the Property or any rights or property of Lessor in immediate jeopardy, and is within the reasonable power of Lessee to promptly cure, all as determined by Lessor in its reasonable discretion, then such failure shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Lessor shall have given Lessee written notice thereof and a period of thirty (30) days shall have elapsed, during which period Lessee may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such failure cannot reasonably be cured within such thirty (30)-day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such failure, then Lessee shall have a reasonable period to cure such failure beyond such thirty (30)-day period, which shall in no event exceed ninety (90) days after receiving notice of such failure from Lessor. If Lessee shall fail to correct or cure such failure within such ninety (90)-day period, an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required;

(g) if a final, nonappealable judgment is rendered by a court against Lessee which has a Material Adverse Effect, and is not discharged or provision made for such discharge within ninety (90) days from the date of entry thereof;

(h) if Lessee shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution;

(i) if the estate or interest of Lessee in the Property shall be levied upon or attached in any proceeding and such estate or interest is about to be sold or transferred or such process shall not be vacated or discharged within ninety (90) days after it is made; or

(j) if there is an "Event of Default" or other breach or default by Lessee or the Guarantor under any of the other Transaction Documents or any Other Agreement, after the passage of all applicable notice and cure or grace periods; *provided, however*, in the event that this Lease has been the subject of a Securitization and any Other Agreement has not been the subject of the same Securitization or any series relating to such Securitization, an "Event of Default" under such Other Agreement shall not constitute an Event of Default under this Lease.

**Section 12.02. Remedies.** Upon the occurrence of an Event of Default, with or without notice or demand, except as otherwise expressly provided herein or such other notice as may be required by statute and cannot be waived by Lessee, Lessor shall be entitled to exercise, at its option, concurrently, successively, or in any combination, all remedies available at Law or in equity, including, without limitation, any one or more of the following:

(a) to terminate this Lease, whereupon Lessee's right to possession of the Property shall cease and this Lease, except as to Lessee's liability, shall be terminated;

(b) to the extent not prohibited by applicable Law, to (i) re-enter and take possession of the Property (or any part thereof), any or all personal property (subject to any rights of Lessee's Institutional Lenders) or fixtures of Lessee upon the Property and, to the extent permissible, permits and other rights or privileges of Lessee pertaining to the use and operation of the Property, and (ii) expel Lessee and those claiming under or through Lessee, without being deemed guilty in any manner of trespass or becoming liable for any loss or damage resulting therefrom, without resort to legal or judicial process, procedure or action. No notice from Lessor hereunder or under a forcible entry and detainer statute or similar Law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. If Lessee shall, after default, voluntarily give up possession of the Property to Lessor, deliver to Lessor or its agents the keys to the Property, or both, such actions shall be deemed to be in compliance with Lessor's rights and the acceptance thereof by Lessor or its agents shall not be deemed to constitute a termination of the Lease. Lessor reserves the right following any re-entry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate;

(c) to bring an action against Lessee for any damages sustained by Lessor or any equitable relief available to Lessor and to the extent not prohibited by applicable Law, to seize all personal property (subject to any rights of Lessee's Institutional Lenders) or fixtures upon the Property which Lessee owns or in which it has an interest, in which Lessor shall have a landlord's lien and/or security interest, and to dispose thereof in accordance with the Laws prevailing at the time and place of such seizure or to remove all or any portion of such property and cause the same to be stored in a public warehouse or elsewhere at Lessee's sole expense, without becoming liable for any loss or damage resulting therefrom and without resorting to legal or judicial process, procedure or action;

(d) to relet the Property or any part thereof for such term or terms (including a term which extends beyond the original Lease Term, provided that the portion of such term that extends beyond the original Lease Term (or then applicable Extension Term) shall be governed by a direct lease agreement between Lessor and new lessee, with no obligations from Lessee)), at such rentals and upon such other terms as Lessor, in its reasonable discretion, may determine, with all proceeds received from such reletting being applied to the Rental and other Monetary Obligations due from Lessee in such order as Lessor may, in its reasonable discretion, determine, which other Monetary Obligations include, without limitation, all repossession costs, brokerage commissions, reasonable attorneys' fees and expenses, alteration, remodeling and repair costs and expenses of preparing for such reletting. Except to the extent required by applicable Law, Lessor shall have no obligation to relet the Property or any part thereof and shall in no event be liable for refusal or failure to relet the Property or any part thereof, or, in the event of any such reletting, for reasonable refusal or failure to collect any rent due upon such reletting, and no such refusal or failure shall operate to relieve Lessee of any liability under this Lease or otherwise to affect any such liability. Lessor reserves the right following any re-entry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate as specified in said notice;

(e) except to the extent prohibited by applicable Law to accelerate and recover from Lessee all Rental and other Monetary Obligations due and owing and scheduled to become due and owing under this Lease both before and after the date of such breach for the entire original scheduled Lease Term;

(f) to recover from Lessee all Costs paid or incurred by Lessor as a result of such breach, regardless of whether or not legal proceedings are actually commenced;

(g) to immediately or at any time thereafter, and with or without notice, at Lessor's sole option but without any obligation to do so, correct such breach or default and charge Lessee all Costs incurred by Lessor therein. Any sum or sums so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be promptly due from Lessee to Lessor upon delivery of an invoice from Lessor to Lessee. Any such acts by Lessor in correcting Lessee's breaches or defaults hereunder shall not be deemed to cure said breaches or defaults or constitute any waiver of Lessor's right to exercise any or all remedies set forth herein;

(h) to immediately or at any time thereafter, and with or without notice, except as required herein, set off any money of Lessee held by Lessor under this Lease or any other Transaction Document or any Other Agreement against any sum owing by Lessee hereunder;

(i) to use the Security Deposit as described in Section 4.09 hereof;

(j) without limiting the generality of the foregoing or limiting in any way the rights of Lessor under this Lease or otherwise under applicable Laws, at any time after the occurrence, and during the continuance, of an Event of Default, Lessor shall be entitled to apply for and have a receiver appointed under applicable Law by a court of competent jurisdiction (by ex parte motion for appointment without notice) in any action taken by Lessor to enforce its rights and remedies hereunder in order to protect and preserve Lessor's interest under this Lease or in the Property

and the Personality (subject to any rights of Lessee's Institutional Lenders), and in connection therewith, Lessee shall reasonably cooperate with Lessor; and/or

(k) to seek any equitable relief available to Lessor, including, without limitation, the right of specific performance.

**Section 12.03. Cumulative Remedies.** All powers and remedies given by Section 12.02 to Lessor, subject to applicable Law, shall be cumulative and not exclusive of one another or of any other right or remedy or of any other powers and remedies available to Lessor under this Lease, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements of Lessee contained in this Lease, and no delay or omission of Lessor to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any other or subsequent Event of Default or impair any rights or remedies consequent thereto. Every power and remedy given by this Section or by Law to Lessor may be exercised from time to time, and as often as may be deemed expedient, by Lessor, subject at all times to Lessor's right in its sole judgment to discontinue any work commenced by Lessor or change any course of action undertaken by Lessor.

## ARTICLE XIII

### MORTGAGE, SUBORDINATION AND ATTORNMENT

**Section 13.01. No Liens.** Lessor's interest in this Lease and/or the Property shall not be subordinate to any liens or encumbrances placed upon the Property by or resulting from any act of Lessee, and nothing herein contained shall be construed to require such subordination by Lessor. NOTICE IS HEREBY GIVEN THAT LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST, DEED TO SECURE DEBT, SECURITY INTEREST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PROPERTY OR LESSEE'S LEASEHOLD INTEREST THEREIN, AND ANY SUCH PURPORTED TRANSACTION SHALL BE VOID.

**Section 13.02. Subordination.** This Lease at all times shall automatically be subordinate to the lien of any and all ground leases and Mortgages now or hereafter placed upon the Property by Lessor, and Lessee covenants and agrees to execute and deliver, upon demand, such further instruments subordinating this Lease to the lien of any or all such ground leases and Mortgages as shall be desired by Lessor, or any present or proposed mortgagees under trust deeds, upon the condition that Lessee shall have the right to remain in possession of the Property under the terms of this Lease, notwithstanding any default in any or all such ground leases or Mortgages, or after the foreclosure of such Mortgages, so long as no Event of Default shall have occurred and be continuing.

**Section 13.03. Attornment.** In the event any purchaser or assignee of any Lender at a foreclosure sale acquires title to the Property, or in the event that any Lender or any purchaser or assignee otherwise succeeds to the rights of Lessor as landlord under this Lease, Lessee shall attorn to Lender or such purchaser or assignee, as the case may be (a "Successor Lessor"), and recognize the Successor Lessor as lessor under this Lease, and, subject to the provisions of this Article XIII, this Lease shall continue in full force and effect as a direct lease between the Successor Lessor and Lessee, provided that the Successor Lessor shall only be liable for any obligations of

Lessor under this Lease which accrue after the date that such Successor Lessor acquires title. The foregoing provision shall be self-operative and effective without the execution of any further instruments.

**Section 13.04. Execution of Additional Documents.** Although the provisions in this Article XIII shall be self-operative and no future instrument of subordination shall be required, upon request by Lessor, Lessee shall execute and deliver such additional reasonable instruments as may be reasonably required for such purposes.

**Section 13.05. Notice to Lender.** Lessee shall give written notice to any Lender having a recorded lien upon the Property or any part thereof of which Lessee has been notified of any breach or default by Lessor of any of its obligations under this Lease and give such Lender at least sixty (60) days beyond any notice period to which Lessor might be entitled to cure such default before Lessee may exercise any remedy with respect thereto.

## ARTICLE XIV

### ASSIGNMENT

**Section 14.01. Assignment by Lessor.** As a material inducement to Lessor's willingness to enter into the transactions contemplated by this Lease (the "Transaction") and the other Transaction Documents, Lessee hereby agrees that Lessor may, from time to time and at any time and without the consent of Lessee but subject to Lessee's rights under Article XVIII, engage in all or any combination of the following, or enter into agreements in connection with any of the following or in accordance with requirements that may be imposed by applicable securities, tax or other Laws: (a) the sale, assignment, grant, conveyance, transfer, financing, re-financing, purchase or re-acquisition of the Property, this Lease or any other Transaction Document, Lessor's right, title and interest in this Lease or any other Transaction Document, the servicing rights with respect to any of the foregoing, or participations in any of the foregoing; or (b) a Securitization and related transactions. Without in any way limiting the foregoing, the parties acknowledge and agree that Lessor, in its sole discretion, may assign this Lease or any interest herein to another Person in order to maintain Lessor's or any of its Affiliates' status as a REIT. In the event of any such sale or assignment other than a security assignment, Lessee shall attorn to such purchaser or assignee (so long as Lessor and such purchaser or assignee notify Lessee in writing of such transfer and such purchaser or assignee expressly assumes in writing the obligations of Lessor hereunder from and after the date of such assignment). At the request of Lessor, Lessee will execute such documents confirming the sale, assignment or other transfer and such other agreements as Lessor may reasonably request, provided that the same do not increase the liabilities and obligations of Lessee hereunder. Lessor shall be relieved, from and after the date of such transfer or conveyance, of liability for the performance of any obligation of Lessor contained herein, except for obligations or liabilities accrued prior to such assignment or sale.

**Section 14.02. Assignment by Lessee.**

(a) Lessee acknowledges that Lessor has relied both on the business experience and creditworthiness of Lessee and upon the particular purposes for which Lessee intends to use the Property in entering into this Lease. Lessee shall not assign, transfer, convey, pledge or mortgage this Lease or any interest herein or any interest in Lessee, whether by operation

of Law or otherwise, without the prior written consent of Lessor. At the time of any assignment of this Lease which is approved by Lessor, the assignee shall assume all of the obligations of Lessee under this Lease pursuant to a written assumption agreement in form and substance reasonably acceptable to Lessor. Such assignment of this Lease pursuant to this Section 14.02 shall not relieve Lessee of its obligations respecting this Lease unless otherwise agreed to by Lessor. Any assignment, transfer, conveyance, pledge or mortgage in violation of this Section 14.02 shall be voidable at the sole option of Lessor. Any consent to an assignment given by Lessor hereunder shall not be deemed a consent to any subsequent assignment.

(b) Notwithstanding anything to the contrary contained in this Section 14.02 and provided that no Event of Default has occurred and is continuing at the time of the proposed assignment or other transfer, and provided further that any assignee agrees to assume all of Lessee's obligations under this Lease, Lessee shall have the right to assign or otherwise transfer all, but not less than all, of its interest in, to and under this Lease without Lessor's consent to (i) any entity which purchases or otherwise acquires all or substantially all of the assets of Lessee in a bona fide sale for fair market value, or (ii) a Qualified Operator (each, a "Permitted Transfer"). A "Qualified Operator" shall mean a Person who (x) for two (2) consecutive years immediately prior to the date of assignment or transfer and (y) on a proforma basis following the consummation of such assignment or transfer (all as determined by Lessor upon review of financial statements provided by the assignee prior to the proposed lease assignment and in a form reasonably satisfactory to Lessor), (A) has a CFCCR (defined below) of at least 1.50x; (B) generates EBITDA (defined below) of at least \$60,000,000, and (C) has a Lease Adjusted Leverage (defined below) of no more than 6.50x; *provided, however*, that Lessee may satisfy the foregoing conditions of a Qualified Operator by providing, or causing to be provided, a guaranty agreement, in form and substance reasonably acceptable to and approved by Lessor, in writing, which guaranty shall be from an entity that meets the requirements of (A), (B) and (C) set forth in this Section 14.02. In the event that Lessee effects a Permitted Transfer pursuant to clause (ii), Lessee shall be released from any liability arising under this Lease from and after the date of such assignment and Guarantor shall be released from any liability arising under the Guaranty from and after the date of such assignment. In the event that Lessee effects a Permitted Transfer pursuant to clause (i), Lessee shall not be released from liability under this Lease nor shall Guarantor be released from liability under the Guaranty.

For purposes hereof:

(i) "CFCCR" means with respect to the twelve month period of time immediately preceding the date of determination, the ratio calculated for such period of time, each as determined in accordance with GAAP, of (i) the sum of Consolidated Net Income (excluding non-cash income), Depreciation and Amortization, Interest Expense, income taxes, Operating Lease Expense and non-cash expenses to (ii) the sum of Operating Lease Expense (excluding non-cash rent adjustments), scheduled principal payments of long term Debt, scheduled maturities of all Capital Leases, dividends and Interest Expense (excluding non-cash interest expense and amortization of non-cash financing expenses). For purposes of calculating the CFCCR, the following terms shall be defined as set forth below:

(A) “*Capital Lease*” shall mean all leases of any property, whether real, personal or mixed, by a Person, which leases would, in conformity with GAAP, be required to be accounted for as a capital lease on the balance sheet of such Person. The term “Capital Lease” shall not include any operating lease.

(B) “*Consolidated Net Income*” shall mean with respect to the period of determination, the net income or net loss of a Person. In determining the amount of Consolidated Net Income, (i) adjustments shall be made for nonrecurring gains and losses or non-cash items allocable to the period of determination, (ii) deductions shall be made for, among other things, Depreciation and Amortization, Interest Expense, Operating Lease Expense, and (iii) no deductions shall be made for income taxes or charges equivalent to income taxes allocable to the period of determination, as determined in accordance with GAAP.

(C) “*Debt*” shall mean with respect to a Person, and for the period of determination (i) indebtedness for borrowed money, (ii) subject to the limitation set forth in sub item (iv) below, obligations evidenced by bonds, indentures, notes or similar instruments, (iii) obligations under leases which should be, in accordance with GAAP, recorded as Capital Leases, and (iv) obligations under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (iv) above, except for guaranty obligations of such Person, which, in conformity with GAAP, are not included on the balance sheet of such Person.

(D) “*Depreciation and Amortization*” shall mean the depreciation and amortization accruing during any period of determination with respect to a Person, as determined in accordance with GAAP.

(E) “*Interest Expense*” shall mean for any period of determination, the sum of all interest accrued or which should be accrued in respect of all Debt of a Person, as determined in accordance with GAAP.

(F) “*Operating Lease Expense*” shall mean the sum of all payments and expenses incurred by a Person, under any operating leases during the period of determination, as determined in accordance with GAAP.

(ii) “*EBITDA*” means for the twelve (12) month period ending on the date of determination, the sum of a Person’s net income (loss) for such period plus, in each case to the extent previously deducted in calculating net income (loss): (A) income taxes, (B) interest payments on all of its debt obligations (including any borrowings under short term credit facilities), (C) all non-cash charges including depreciation and amortization, and (D) Non-Recurring Items (defined below).

(iii) “*EBITDAR*” means the sum of a Person’s EBITDA and its total land and building rent for the twelve (12) month period ending on the date of determination.

(iv) “*Lease Adjusted Leverage*” means with respect to a Person, as of any applicable date, the sum of (A) ten (10) times such Person’s total land and building rent for the twelve (12) month period ending on the date of determination, and (B) the total current balance of such Person’s total debt obligations (including any borrowings under short term credit facilities) on such date, divided by EBITDAR.

(v) “*Non-Recurring Items*” shall mean with respect to a Person, items of the sum (whether positive or negative) of revenue minus expenses that, in the judgment of Lessor, are unusual in nature, occur infrequently and are not representative of the ongoing or future earnings or expenses of such Person.

**Section 14.03. No Subletting.** Lessee shall not sublet any or all of the Property without the prior written consent of Lessor, which shall not be unreasonably withheld, conditioned, or delayed; *provided, however*, that without Lessor’s consent, Lessee may sublet any or all of the Properties (each such sublease described in this Section 14.03, individually, a “Permitted Sublease” and collectively, “Permitted Subleases”, and such subtenant thereunder, “Subtenant”) so long as each Permitted Sublease contains the following provisions: (a) the Permitted Sublease is subject and subordinate to this Lease; (b) the Permitted Sublease shall not contain any terms inconsistent with this Lease (or if so, the terms of this Lease shall control); (c) the rent due under any Permitted Sublease shall be fixed rent and shall not be based on the net profits of any Subtenant; (d) unless otherwise mutually agreed upon by Lessor and the related Subtenant, the Permitted Sublease shall terminate upon the expiration or sooner termination of this Lease (including any renewals hereof), provided that the related Subtenant agrees to attorn to Lessor if Lessor elects to assume the Permitted Sublease following a termination of this Lease; (e) Lessee shall at all times remain liable under this Lease irrespective of any Permitted Sublease; and (f) the related Property shall be used and occupied only as a Permitted Facility.

## ARTICLE XV

### NOTICES

**Section 15.01. Notices.** All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Lease shall be in writing and given by any one of the following: (a) hand delivery; (b) express overnight delivery service; (c) certified or registered mail, return receipt requested; or (d) email transmission, and shall be deemed to have been delivered upon (i) receipt, if hand delivered; (ii) the next Business Day, if delivered by a reputable express overnight delivery service; (iii) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested; or (iv) transmission, if delivered by email transmission. Notices shall be provided to the parties and addresses (or electronic mail addresses) specified below:

If to Lessee: Real Time Logic, Inc.  
12515 Academy Ridge View  
Colorado Springs, CO 80921  
Attention: Director of Operations  
Email: shamilton@rtlogic.com

With a copy to: Kratos Defense & Security Solutions, Inc.  
4820 Eastgate Mall, Suite 200  
San Diego, CA 92121  
Attention: General Counsel  
Email: marie.mendoza@kratosdefense.com

If to Lessor: STORE Capital Acquisitions, LLC  
8377 E. Hartford Drive, Suite 100  
Scottsdale, AZ 85255  
Attention: Michael T. Bennett  
Executive Vice President – General Counsel  
Email: mbennett@storecapital.com

With a copy to: Kutak Rock LLP  
1801 California Street, Suite 3000  
Denver, CO 80202  
Attention: Kristine Poston, Esq.  
Email: kristine.poston@kutakrock.com

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above.

## ARTICLE XVI

### LANDLORD'S LIEN / SECURITY INTEREST

**Section 16.01. Landlord's Lien and Security Interest.** Lessee agrees that Lessor shall have a landlord's lien, in, on and against all of Lessee's right, title and interest in, to and under all Personalty, which lien and security interest shall secure the payment of all Rental and other Monetary Obligations payable by Lessee to Lessor under the terms hereof and all other obligations of Lessee to Lessor under this Lease. Lessee agrees that Lessor may file such documents as Lessor then deems appropriate or necessary to perfect and maintain said lien and security interest, and expressly acknowledges and agrees that, in addition to any and all other rights and remedies of Lessor whether hereunder or at Law or in equity, in the Event of Default of Lessee hereunder, Lessor shall have any and all rights and remedies granted a secured party under the Uniform Commercial Code then in effect in the state where the Property is located. Lessee covenants to promptly notify Lessor of any changes in Lessee's name and/or organizational structure which may necessitate the execution and filing of additional financing statements; *provided, however*, the foregoing shall not be construed as Lessor's consent to such changes.

**Section 16.02. Landlord Subordination.** Notwithstanding anything contain in Section 16.01 to the contrary, Lessee shall have the right from time to time during the Lease Term and without Lessor's further approval, written or otherwise, to grant a security interest in Lessee's property (including the Personalty) to Lessee's and/or Guarantor's institutional lenders ("Lessee's Institutional Lenders") in connection with Lessee's and Guarantor's financing arrangements. Lessor agrees to execute such subordinations and other related documents related to the Lessor subordination described herein (except amendments to this Lease unless Lessor hereafter consents) as Lessee's Institutional Lender may reasonably request and in a form acceptable to Lessor in connection with any such financing.

## ARTICLE XVII

### MISCELLANEOUS

**Section 17.01. Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform (each, a "Force Majeure Event") shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage, expressly excluding, however, the obligations imposed upon Lessee with respect to Rental and other Monetary Obligations to be paid hereunder.

**Section 17.02. No Merger.** There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in or ownership of the Property by reason of the fact that the same person, corporation, firm or other entity may acquire or hold or own, directly or indirectly, (a) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in such leasehold estate, and (b) the fee estate or ownership of the Property or any interest in such fee estate or ownership. No such merger shall occur unless and until all persons, corporations, firms and other entities having any interest in (i) this Lease or the leasehold estate created by this Lease, and (ii) the fee estate in or ownership of the Property or any part thereof sought to be merged shall join in a written instrument effecting such merger and shall duly record the same.

**Section 17.03. Interpretation.** Lessor and Lessee acknowledge and warrant to each other that each has been represented by independent counsel and has executed this Lease after being fully advised by said counsel as to its effect and significance. This Lease shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument, the relative bargaining powers of the parties or the domicile of any party. Whenever in this Lease any words of obligation or duty are used, such words or expressions shall have the same force and effect as though made in the form of a covenant.

**Section 17.04. Characterization.** The following expressions of intent, representations, warranties, covenants, agreements, stipulations and waivers are a material inducement to Lessor entering into this Lease:

(a) Lessor and Lessee intend that (i) this Lease is a "true lease," is not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease; and (ii) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between Lessor and Lessee, the Lease has been entered into by both parties in reliance upon the economic and legal bargains contained herein, and none of the agreements contained herein is intended, nor shall the same be deemed or construed, to create a partnership (*de facto* or *de jure*) between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

(b) Lessor and Lessee covenant and agree that: (i) each intends to treat this Lease as an operating lease pursuant to Accounting Standards Codification 840 or 842 Leases, as may be amended from time to time, and as a true lease for state Law reporting purposes and for federal income tax purposes; (ii) each party will not, nor will it permit any Affiliate to, at any time, take any action or fail to take any action with respect to the preparation or filing of any statement or disclosure to Governmental Authority, including without limitation, any income tax return (including an amended income tax return), to the extent that such action or such failure to take action would be inconsistent with the intention of the parties expressed in this Section 17.04; (iii) with respect to the Property, the Lease Term is less than seventy-five percent (75%) of the estimated remaining economic life of the Property; and (iv) the Base Annual Rental is the fair market value for the use of the Property and was agreed to by Lessor and Lessee on that basis, and the execution and delivery of, and the performance by Lessee of its obligations under, this Lease do not constitute a transfer of all or any part of the Property.

(c) Lessee waives any claim or defense based upon the characterization of this Lease as anything other than a true lease of the Property. Lessee stipulates and agrees (i) not to challenge the validity, enforceability or characterization of the lease of the Property as a true lease of the Property; and (ii) not to assert or take or omit to take any action inconsistent with the agreements and understandings set forth in this Section 17.04.

#### **Section 17.05. Disclosures.**

(a) **Securities Act or Exchange Act.** The parties agree that, notwithstanding any provision contained in this Lease, any party (and each employee, representative or other agent of any party) may disclose to any and all persons, without limitation of any kind, any matter required under the Securities Act or the Exchange Act.

(b) **Lessor Advertising and Related Publications.** Each party shall obtain the other party's prior written consent before such other party's name, trademarks, logos, pictures of stores and signage, and basic Transaction information (collectively "Company Information") is used in connection with any sales, advertising, and press release materials, including on the requesting party's website.

(c) **Public Disclosures.** Except as required by Law, neither party shall make any public disclosure, including press releases or any form of media release, of this Lease Agreement or any transactions relating hereto without the prior written consent of the other.

**Section 17.06. Attorneys' Fees.** In the event of any judicial or other adversarial proceeding concerning this Lease, to the extent permitted by Law, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees and other Costs in addition to any other relief to which it may be entitled.

**Section 17.07. Memorandum of Lease.** Concurrently with the execution of this Lease, Lessor and Lessee are executing Lessor's standard form memorandum of lease in recordable form, indicating the names and addresses of Lessor and Lessee, a description of the Property, the Lease Term, but omitting Rentals and such other terms of this Lease as Lessor may not desire to disclose to the public. Further, upon Lessor's reasonable request, Lessee agrees to execute and acknowledge a termination of lease and/or quitclaim deed in recordable form to be held by Lessor until the expiration or sooner termination of the Lease Term.

**Section 17.08. No Brokerage.** Lessor and Lessee represent and warrant to each other that they have had no conversation or negotiations with any broker, other than Olive Real Estate Group (whose fees will be paid in accordance with the terms of the Disbursement Agreement) concerning the leasing of the Property. Each of Lessor and Lessee agrees to protect, defend (using counsel chosen by Lessee and approved by Lessor), indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, Costs, damages and expenses, including reasonable attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

**Section 17.09. Waiver of Jury Trial and Certain Damages.** LESSOR AND LESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF THE PROPERTY, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN. FURTHERMORE, LESSOR AND LESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM THE OTHER PARTY AND ANY OF THE AFFILIATES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS OR EMPLOYEES OF LESSOR OR LESSEE, AS APPLICABLE, OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THE WAIVER BY LESSOR AND LESSEE OF ANY RIGHT EITHER MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES HERETO AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

**Section 17.10. Securitizations.** As a material inducement to Lessor's willingness to enter into the Transactions contemplated by this Lease and the other Transaction Documents, Lessee hereby acknowledges and agrees that Lessor may, from time to time and at any time (a) advertise, issue press releases, send direct mail or otherwise disclose information regarding the Transaction for marketing purposes with Lessee's prior written consent; and (b) (i) act or permit another Person to act as sponsor, settler, transferor or depositor of, or a holder of interests in, one or more Persons or other arrangements formed pursuant to a trust agreement, indenture, pooling agreement, participation agreement, sale and servicing agreement, limited liability company agreement, partnership agreement, articles of incorporation or similar agreement or document; and (ii) permit one or more of such Persons or arrangements to offer and sell stock, certificates, bonds, notes, other evidences of indebtedness or securities that are directly or indirectly secured, collateralized or otherwise backed by or represent a direct or indirect interest in whole or in part in any of the assets, rights or properties described in Section 14.01 of this Lease, in one or more Persons or arrangements holding such assets, rights or properties, or any of them (collectively, the "Securities"), whether any such Securities are privately or publicly offered and sold, or rated or unrated (any combination of which actions and transactions described in both clauses (i) and (ii) in this paragraph, whether proposed or completed, are referred to in this Lease as a "Securitization"). Lessee shall cooperate fully with Lessor and any Affected Party with respect to all reasonable requests and due diligence procedures and use reasonable efforts to facilitate such Securitization, provided that such cooperation shall be at no additional cost or expense to Lessee so long as Lessee is not otherwise required to provide such information to Lessor pursuant to the other provisions of this Lease.

**Section 17.11. State-Specific Provisions.** The provisions and/or remedies which are set forth on the attached Exhibit D shall be deemed a part of and included within the terms and conditions of this Lease.

**Section 17.12. Time is of the Essence; Computation.** Time is of the essence with respect to each and every provision of this Lease. If any deadline provided herein falls on a non-Business Day, such deadline shall be extended to the next day that is a Business Day.

**Section 17.13. Waiver and Amendment.** No provision of this Lease shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the Rental and other Monetary Obligations stipulated to be due under this Lease shall be deemed to be other than a payment on account of the earliest such Rental or other Monetary Obligations then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

**Section 17.14. Successors Bound.** Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

**Section 17.15. Captions.** Captions are used throughout this Lease for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

**Section 17.16. Other Documents.** Each of the parties agrees to sign such other and further documents as may be reasonably necessary or appropriate to carry out the intentions expressed in this Lease.

**Section 17.17. Entire Agreement.** This Lease and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

**Section 17.18. Forum Selection; Jurisdiction; Venue; Choice of Law.** For purposes of any action or proceeding arising out of this Lease, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the state where the Property is located. Lessee and Lessor each consents that it may be served with any process or paper by registered mail or by personal service within or without the state where the Property is located in accordance with applicable Law. Furthermore, Lessee waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. This Lease shall be governed by, and construed with, the Laws of the applicable state in which the Property is located, without giving effect to any state's conflict of Laws principles.

**Section 17.19. Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original. Furthermore, the undersigned agree that transmission of this Lease via e-mail in a ".pdf" or other electronic format shall be deemed transmission of the original Lease for all purposes.

## ARTICLE XVIII

### RIGHT OF FIRST REFUSAL

**Section 18.01. Offer.** Subject to the terms and conditions set forth in this Section Article XVIII, if Lessor desires to sell the Property and receives a bona fide written offer from a third party which offer is in all respects acceptable to Lessor, Lessor shall deliver a complete copy of such bona fide third party offer to Lessee ("Third Party Offer"). Within twenty-one (21) days of Lessee's receipt of the first Third Party Offer delivered hereunder, and within fifteen (15) days of Lessee's receipt of subsequent Third Party Offer from Lessor, and a written statement of Lessor's desire to sell the Property in accordance with such Third Party Offer, Lessee shall have the right to deliver an offer to Lessor ("Purchase Offer") to purchase Lessor's interest in any such Property for the amount of the bona fide third party offer to purchase the Property (the "Subject Purchase Price"). Lessee shall complete such purchase, subject to the satisfaction of each of the terms and conditions set forth in Section 18.02 below.

**Section 18.02. Conditions Precedent.**

(a) The purchase of Lessor's interest in the Property pursuant to Section 18.01 shall be subject to the fulfillment of all of the following terms and conditions: (i) no Event of Default shall have occurred and be continuing under this Lease or other Transaction Documents; (ii) Lessee shall have paid to Lessor the Subject Purchase Price, together with all Rental and other Monetary Obligations then due and payable under this Lease as of the date of the closing of such purchase; (iii) in addition to payment of the Subject Purchase Price, Lessee shall have satisfied its obligations under Section 18.03 below; and (iv) the date of the closing of such purchase shall occur within sixty (60) days of Lessor's receipt of the Purchase Offer.

(b) On the date of the closing of the purchase of a Property pursuant to this Section (the "Purchase Closing Date"), subject to satisfaction of the foregoing conditions: (i) this Lease shall be deemed terminated; *provided, however*, such termination shall not limit Lessee's obligations to Lessor under any indemnification provisions of this Lease and Lessee's obligations to pay any Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease with respect to such Property prior to the Purchase Closing Date shall survive the termination of this Lease; and (ii) Lessor shall convey such Property to Lessee "as is" by special warranty deed, subject to all matters of record (except for any consensual liens granted by Lessor other than those granted by Lessor at the request of Lessee), and without representations or warranty.

**Section 18.03. Costs.** Lessee shall be solely responsible for the payment of all Costs, whether or not the purchase is consummated that the third party was willing to be responsible for under the Third Party Offer.

**Section 18.04. Termination of Right.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, LESSEE'S RIGHTS UNDER THIS ARTICLE XVIII SHALL TERMINATE AND BE NULL AND VOID AND OF NO FURTHER FORCE AND EFFECT IF (i) LESSEE FAILS TO EXERCISE THE RIGHT GRANTED PURSUANT TO THIS ARTICLE, AND THE SALE TO THE THIRD PARTY PURCHASER IS CONSUMMATED; (ii) THIS LEASE TERMINATES OR THE LEASE TERM EXPIRES; (iii) THE PROPERTY IS SOLD OR TRANSFERRED PURSUANT TO THE EXERCISE OF A PRIVATE POWER OF SALE OR JUDICIAL FORECLOSURE OR ACCEPTANCE OF A DEED IN LIEU THEREOF; OR (iv) LESSEE SHALL BE IN DEFAULT OF ANY OF THE TERMS AND CONDITIONS OF THIS LEASE OR IF ANY CONDITION SHALL EXIST WHICH UPON THE GIVING OF NOTICE OR THE PASSAGE OF TIME, OR BOTH, WOULD CONSTITUTE A DEFAULT BY LESSEE UNDER THIS LEASE. IN ANY SUCH EVENT, LESSEE SHALL EXECUTE A QUITCLAIM DEED AND SUCH OTHER DOCUMENTS AS LESSOR SHALL REASONABLY REQUEST EVIDENCING THE TERMINATION OF ITS RIGHT UNDER THIS SECTION 18.04.

**Section 18.05. Attornment.** If Lessee does not deliver its Purchase Offer to purchase the Property and the Property is transferred to a third party purchaser, Lessee will attorn to any third party purchaser as Lessor so long as such third party purchaser and Lessor notify Lessee in writing of such transfer and so long as there is no material increase to Lessee's obligations under this Lease. At the request of Lessor, Lessee will execute such documents confirming the agreement referred to above and such other agreements as Lessor may reasonably request, provided that such agreements do not increase the liabilities and obligations of Lessee hereunder.

**Section 18.06. Exclusions.** The provisions of this Article XVIII shall not apply to or prohibit (i) any mortgages or other hypothecation of Lessor's interest in the Property; (ii) any sale of the Property pursuant to a private power of sale under or judicial foreclosure of any mortgage or other security instrument or device to which Lessor's interest in the Property is now or hereafter subject; (iii) any transfer of Lessor's interest in the Property to a mortgagee or other holder of a security interest therein or their designees by deed in lieu of foreclosure; (iv) any transfer of the Property to any governmental or quasi-governmental agency with power of Condemnation; (v) any transfer of the Property to any Affiliate of Lessor; (vi) any transfers of interests in Lessor by any member, shareholder, partner or other owner to any other member, shareholder, partner or other owner; and (vii) any transfers to any Person to whom Lessor sells all or substantially all of its assets.

*[Remainder of page intentionally left blank; signature page(s) to follow]*

IN WITNESS WHEREOF, Lessor and Lessee have entered into this Lease as of the date first above written.

**LESSOR:**

**STORE CAPITAL ACQUISITIONS, LLC,**  
a Delaware limited liability company

By: /s/Michael T. Bennett

Printed Name: Michael T. Bennett

Title: Executive Vice President, General Counsel

4830-8668-1413.9  
STORE / RT Logic (Kratos)  
Lease Agreement (Existing Building Area)  
File No.: 7210/02-525.1

**LESSEE:**

**REAL TIME LOGIC, INC.,**  
a Colorado corporation

By: /s/ Michael W. Fink

Printed Name: Michael W. Fink

Title: Vice President, Contracts

4830-8668-1413.9  
STORE / RT Logic (Kratos)  
Lease Agreement (Existing Building Area)  
File No.: 7210/02-525.1

## EXHIBITS

Exhibit A: Defined Terms

Exhibit B: Legal Description and Street Address of the Property

Exhibit C: Wire Instructions

Exhibit D: State-Specific Provisions

Schedule 8.01 Prohibited Uses

4830-8668-1413.9  
STORE / RT Logic (Kratos)  
Lease Agreement (Existing Building Area)  
File No.: 7210/02-525.1

## EXHIBIT A

### DEFINED TERMS

The following terms shall have the following meanings for all purposes of this Lease:

*"Additional Rental"* has the meaning set forth in Section 4.03.

*"Adjustment Date"* has the meaning set forth in Section 1.07.

*"Affected Party"* means each direct or indirect participant or investor in a proposed or completed Securitization, including, without limitation, any prospective owner, any rating agency or any party to any agreement executed in connection with the Securitization.

*"Affiliate"* means any Person which directly or indirectly controls, is under common control with or is controlled by any other Person. For purposes of this definition, "controls," "under common control with," and "controlled by" means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

*"Anti-Money Laundering Laws"* means all applicable Laws, regulations and government guidance on the prevention and detection of money laundering, including, without limitation, (a) 18 U.S.C. §§ 1956 and 1957; and (b) the Bank Secrecy Act, 31 U.S.C. §§ 5311 et seq., and its implementing regulations, 31 CFR Part 103.

*"Base Annual Rental"* has the meaning set forth in Section 1.05.

*"Base Monthly Rental"* means an amount equal to 1/12 of the applicable Base Annual Rental.

*"Business Day"* means a day on which banks located in Scottsdale, Arizona are not required or authorized to remain closed.

*"Casualty"* means any loss of or damage to any property included within or related to the Property or arising from an adjoining property caused by an Act of God, fire, flood or other catastrophe.

*"Code"* means the Internal Revenue Code of 1986, as the same may be amended from time to time.

*"Condemnation"* means a Taking and/or a Requisition.

*"Costs"* means all reasonable costs and expenses incurred by a Person, including, without limitation, reasonable attorneys' fees and expenses, court costs, expert witness fees, costs of tests and analyses, travel and accommodation expenses, deposition and trial transcripts, copies and other similar costs and fees, brokerage fees, escrow fees, title insurance premiums, appraisal fees, stamp taxes, recording fees and transfer taxes or fees, as the circumstances require.

*"Default Rate"* means 18% per annum or the highest rate permitted by Law, whichever is less.

*"Disbursement Agreement"* means that certain Development and Disbursement Agreement dated as of the date hereof by and between STORE Capital Acquisitions, LLC and ViaWest Properties, LLC, and acknowledged and agreed to by Lessee, related to the construction of the New Building within the New Building Area.

*"Effective Date"* has the meaning set forth in the introductory paragraph of this Lease.

*"Entire Parcel"* has the meaning set forth in Section 2.03.

*"Environmental Laws"* means federal, state and local Laws, ordinances, common law requirements and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees having the effect of Law in effect now or in the future and including all amendments, that relate to Hazardous Materials, Regulated Substances, USTs, and/or the protection of human health or the environment, or relating to liability for or Costs of Remediation or prevention of Releases, and apply to Lessee and/or the Property.

*"Environmental Liens"* means any liens and other encumbrances imposed pursuant to any Environmental Law.

*"Event of Default"* has the meaning set forth in Section 12.01.

*"Exchange Act"* means the Securities Exchange Act of 1934, as amended.

*"Expenditure Cap"* has the meaning set forth in Section 7.01(b).

*"Extension Option"* has the meaning set forth in Section 3.02.

*"Extension Term"* has the meaning set forth in Section 3.02.

*"First Deposit Return"* has the meaning set forth in Section 4.09(c)(i).

*"Force Majeure Event"* has the meaning set forth in Section 17.01.

*"GAAP"* means generally accepted accounting principles, consistently applied from period to period.

*"Governmental Authority"* means any governmental authority, agency, department, commission, bureau, board, instrumentality, court or quasi-governmental authority of the United States, any state or any political subdivision thereof with authority to adopt, modify, amend, interpret, give effect to or enforce any federal, state and local Laws, statutes, ordinances, rules or regulations, including common law, or to issue court orders.

*"Guarantor"* means Kratos Defense & Security Solutions, Inc., a Delaware corporation, or any additional or replacement guarantor(s) approved by Lessor in its reasonable discretion.

“*Guaranty*” means that certain Unconditional Guaranty of Payment and Performance dated as of the date hereof given by Guarantor for the benefit of Lessor, as the same may be amended from time to time.

“*Hazardous Materials*” includes: (a) oil, petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other materials, contaminants or pollutants, the presence of which causes the Property to be in violation of any local, state or federal Law or regulation, or Environmental Law, or are defined as or included in the definition of “hazardous substances,” “hazardous wastes,” “hazardous materials,” “toxic substances,” “contaminants,” “pollutants,” or words of similar import under any applicable local, state or federal Law or under the regulations adopted, orders issued, or publications promulgated pursuant thereto, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; (ii) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 5101, et seq.; (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; and (iv) regulations adopted and publications promulgated pursuant to the aforesaid Laws; (b) asbestos in any form which is friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty (50) parts per million; (c) underground storage tanks; and (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority.

“*Indemnified Parties*” means Lessor, its members, managers, officers, directors, shareholders, partners, employees, affiliates, subsidiaries, successors and assigns, including, but not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of the assets and business of Lessor.

“*Initial Term*” has the meaning set forth in Section 3.01.

“*Insolvency Event*” means (a) a Person’s making a general assignment for the benefit of creditors; (b) any proceeding being instituted by or against any Person (i) seeking to adjudicate it bankrupt or insolvent; (ii) seeking liquidation, dissolution, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any Law relating to bankruptcy, insolvency, or reorganization or relief of debtors; or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property, and in the case of any such proceeding instituted against any Person, either such proceeding shall remain undismissed for a period of one hundred twenty (120) days or any of the actions sought in such proceeding shall occur; or (c) any Person taking any corporate action to authorize any of the actions set forth above in this definition.

“*Insurance Premiums*” has the meaning in Section 6.04.

“*Law(s)*” means any constitution, statute, rule of law, code, ordinance, order, judgment, decree, injunction, rule, regulation, policy, requirement or administrative or judicial determination, even if unforeseen or extraordinary, of every duly constituted Governmental Authority, court or agency, now or hereafter enacted or in effect.

“*Lease Term*” has the meaning described in Section 3.01.

*“Legal Requirements”* means the requirements of all present and future Laws (including, without limitation, Environmental Laws and Laws relating to accessibility to, usability by, and discrimination against, disabled individuals), all judicial and administrative interpretations thereof, including any judicial order, consent, decree or judgment, and all covenants, restrictions and conditions now or hereafter of record which may be applicable to Lessee or to the Property, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or restoration of the Property, even if compliance therewith necessitates structural changes or improvements or results in interference with the use or enjoyment of the Property.

*“Lender”* means any lender in connection with any loan secured by Lessor’s interest in the Property, and any servicer of any loan secured by Lessor’s interest in the Property.

*“Lessee Entity”* or *“Lessee Entities”* means individually or collectively, as the context may require, Lessee and Guarantor.

*“Lessee Reporting Entities”* means individually or collectively, as the context may require, Lessee and Guarantor.

*“Lessee’s Information”* has the meaning set forth in Section 17.05(b).

*“Lessee’s Institutional Lenders”* has the meaning set forth in Section 16.01.

*“Lessor Entity”* or *“Lessor Entities”* means individually or collectively, as the context may require, Lessor and all Affiliates of Lessor.

*“Lessor Expenditure”* has the meaning set forth in Section 7.01(b).

*“Losses”* means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, Costs, diminutions in value, fines, penalties, interest, charges, fees, judgments, awards, amounts paid in settlement and damages of whatever kind or nature, inclusive of bodily injury and property damage to third parties (including, without limitation, attorneys’ fees and other Costs of defense).

*“Material Adverse Effect”* means a material adverse effect on (a) the Property, including without limitation, the operation of the Property as a Permitted Facility and/or the value of the Property; (b) Lessee’s ability to perform its obligations under this Lease; (c) Lessor’s interests in the Property, this Lease or the other Transaction Documents; or (d) Guarantor’s ability to perform its obligations under the Guaranty.

*“Monetary Obligations”* means all Rental and all other sums payable or reimbursable by Lessee under this Lease to Lessor, to any third party on behalf of Lessor, or to any Indemnified Party.

*“Mortgage”* means, collectively, the mortgages, deeds of trust or deeds to secure debt, assignments of rents and leases, security agreements and fixture filings executed by Lessor for the benefit of Lender with respect to the Property, as such instruments may be amended, modified, restated or supplemented from time to time and any and all replacements or substitutions.

“*Net Award*” means (a) the entire award payable with respect to a Property by reason of a Condemnation whether pursuant to a judgment or by agreement or otherwise; or (b) the entire proceeds of any insurance required under Section 6.03 payable with respect to a Property, as the case may be, and in either case, less any Costs incurred by Lessor in collecting such award or proceeds.

“*New Building*” means the to-be-constructed improvements to be located within the New Building Area.

“*New Building Area*” means the unshaded portion of the Entire Parcel depicted on the drawing on Exhibit B attached hereto, all rights, privileges, and appurtenances associated therewith, and all buildings, fixtures and other improvements now or hereafter located in such unshaded area of the Entire Parcel (whether or not affixed to such real estate).

“*New Building Lease*” means that certain Lease Agreement among Lessor and Lessee dated as of the Effective Date with respect to the New Building Area.

“*OFAC Laws*” means Executive Order 13224 issued by the President of the United States, and all regulations promulgated thereunder, including, without limitation, the Terrorism Sanctions Regulations (31 CFR Part 595), the Terrorism List Governments Sanctions Regulations (31 CFR Part 596), the Foreign Terrorist Organizations Sanctions Regulations (31 CFR Part 597), and the Cuban Assets Control Regulations (31 CFR Part 515), and all other present and future federal, state and local Laws, ordinances, regulations, policies, lists (including, without limitation, the Specially Designated Nationals and Blocked Persons List) and any other requirements of any Governmental Authority (including without limitation, the U.S. Department of the Treasury Office of Foreign Assets Control) addressing, relating to, or attempting to eliminate, terrorist acts and acts of war, each as supplemented, amended or modified from time to time after the Effective Date, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar Laws, ordinances, regulations, policies or requirements of other states or localities.

“*Other Agreements*” means, collectively, all agreements and instruments now or hereafter entered into between, among or by (a) any of the Lessee Entities; and, or for the benefit of, (b) any of the Lessor Entities, including, without limitation, leases (including the New Building Lease), promissory notes and guaranties, but excluding this Lease and all other Transaction Documents.

“*Partial Condemnation*” has the meaning set forth in Section 11.03.

“*Permitted Amounts*” shall mean, with respect to any given level of Hazardous Materials or Regulated Substances, that level or quantity of Hazardous Materials or Regulated Substances in any form or combination of forms which does not constitute a violation of any Environmental Laws and is customarily employed in, or associated with, similar businesses located in the state where the Property is located.

“*Permitted Facility*” means general office purposes, labs, storage and warehousing and any other lawful purpose common to and suitable for modern suburban office buildings in Colorado Springs, CO, except for the “Prohibited Uses” described in Schedule 8.01 attached hereto.

“*Person*” means any individual, partnership, corporation, limited liability company, trust, unincorporated organization, Governmental Authority or any other form of entity.

“*Personalty*” means any and all “goods” (excluding “inventory,” and including, without limitation, all “equipment,” “fixtures,” appliances and furniture (as “goods,” “inventory,” “equipment” and “fixtures” are defined in the applicable Uniform Commercial Code then in effect in the applicable jurisdiction)) from time to time situated on or used in connection with the Property, whether now owned or held or hereafter arising or acquired, together with all replacements and substitutions therefore and all cash and non-cash proceeds (including insurance proceeds and any title and UCC insurance proceeds) and products thereof, and, in the case of tangible collateral, together with all additions, attachments, accessions, parts, equipment and repairs now or hereafter attached or affixed thereto or used in connection therewith.

“*Price Index*” means the Consumer Price Index which is designated for the applicable month of determination as the United States City Average for All Urban Consumers, All Items, Not Seasonally Adjusted, with a base period equaling 100 in 1982 - 1984, as published by the United States Department of Labor’s Bureau of Labor Statistics or any successor agency. In the event that the Price Index ceases to be published, its successor index measuring cost of living as published by the same Governmental Authority which published the Price Index shall be substituted and any necessary reasonable adjustments shall be made by Lessor and Lessee in order to carry out the intent of Section 4.02. In the event there is no successor index measuring cost of living, Lessor shall reasonably select an alternative price index measuring cost of living that will constitute a reasonable substitute for the Price Index.

“*Property*” means the shaded portion of the Entire Parcel depicted on the drawing on Exhibit B attached hereto, all rights, privileges, and appurtenances associated therewith, and all buildings, fixtures and other improvements now or hereafter located in such shaded area of the Entire Parcel (whether or not affixed to such real estate), but excluding *Personalty*.

“*Purchase Closing Date*” has the meaning set forth in Section 18.02(b).

“*Purchase Offer*” has the meaning set forth in Section 18.01.

“*Real Estate Taxes*” has the meaning set forth in Section 6.04.

“*Regulated Substances*” means “petroleum” and “petroleum-based substances” or any similar terms described or defined in any of the Environmental Laws and any applicable federal, state, county or local Laws applicable to or regulating USTs.

“*REIT*” means a real estate investment trust as defined under Section 856 of the Code.

“*Release*” means any presence, release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials, Regulated Substances or USTs or any Threatened Release.

“*Remediation*” means any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Materials, Regulated Substances or USTs, any actions to prevent, cure or mitigate any Release, any action

to comply with any Environmental Laws or with any permits issued pursuant thereto, any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis, or any evaluation relating to any Hazardous Materials, Regulated Substances or USTs.

*“Rental”* means, collectively, the Base Annual Rental and the Additional Rental.

*“Rental Adjustment”* means an amount equal to the lesser of (a) 2% of the Base Annual Rental in effect immediately prior to the applicable Adjustment Date, or (b) the product of (i) the percentage change between the Price Index for the month which is two months prior to the Effective Date or the Price Index used for the immediately preceding Adjustment Date, as applicable, and the Price Index for the month which is two months prior to the applicable Adjustment Date; and (ii) the then current Base Annual Rental.

*“Requisition”* means any temporary requisition or confiscation of the use or occupancy of the Property by any Governmental Authority, civil or military, whether pursuant to an agreement with such Governmental Authority in settlement of or under threat of any such requisition or confiscation, or otherwise.

*“Reserve”* has the meaning in Section 6.04.

*“Securities”* has the meaning set forth in Section 17.10.

*“Securities Act”* means of the Securities Act of 1933, as amended.

*“Securitization”* has the meaning set forth in Section 17.10.

*“Security Deposit”* has the meaning set forth in Section 4.09(a).

*“Subject Purchase Price”* has the meaning set forth in Section 18.01.

*“Successor Lessor”* has the meaning set forth in Section 13.03.

*“Taking”* means (a) any taking or damaging of all or a portion of the Property (i) in or by condemnation or other eminent domain proceedings pursuant to any Law, general or special; (ii) by reason of any agreement with any condemnor in settlement of or under threat of any such condemnation or other eminent domain proceeding; or (iii) by any other means; or (b) any de facto condemnation. The Taking shall be considered to have taken place as of the later of the date actual physical possession is taken by the condemnor, or the date on which the right to compensation and damages accrues under the Law applicable to the Property.

*“Temporary Taking”* has the meaning set forth in Section 11.04.

*“Third Party Offer”* has the meaning set forth in Section 18.01.

*“Threatened Release”* means a substantial likelihood of a Release which requires action to prevent or mitigate damage to the soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air or any other environmental medium comprising or surrounding the Property which may result from such Release.

“*Total Condemnation*” has the meaning set forth in Section 11.02.

“*Transaction*” has the meaning set forth in Section 14.01.

“*Transaction Documents*” means this Lease, the Guaranty and all documents related thereto.

“*U.S. Publicly Traded Entity*” means an entity whose securities are listed on a national securities exchange or quoted on an automated quotation system in the United States or a wholly-owned subsidiary of such an entity.

“*USTs*” means any one or combination of tanks and associated product piping systems used in connection with storage, dispensing and general use of Regulated Substances.

“*Warranties*” has the meaning set forth in Section 2.04.

**EXHIBIT B**

**LEGAL DESCRIPTION AND  
STREET ADDRESS OF THE PROPERTY**

**Property:** The "Property" initially being leased by Lessee consists of the real property and improvements representing the shaded portion of the Entire Parcel depicted in the drawing below.

**New Building Area:** The "New Building Area" means the real property and improvements representing the unshaded portion of the Entire Parcel depicted in the drawing below.

Address and Legal Description of the Entire Parcel:

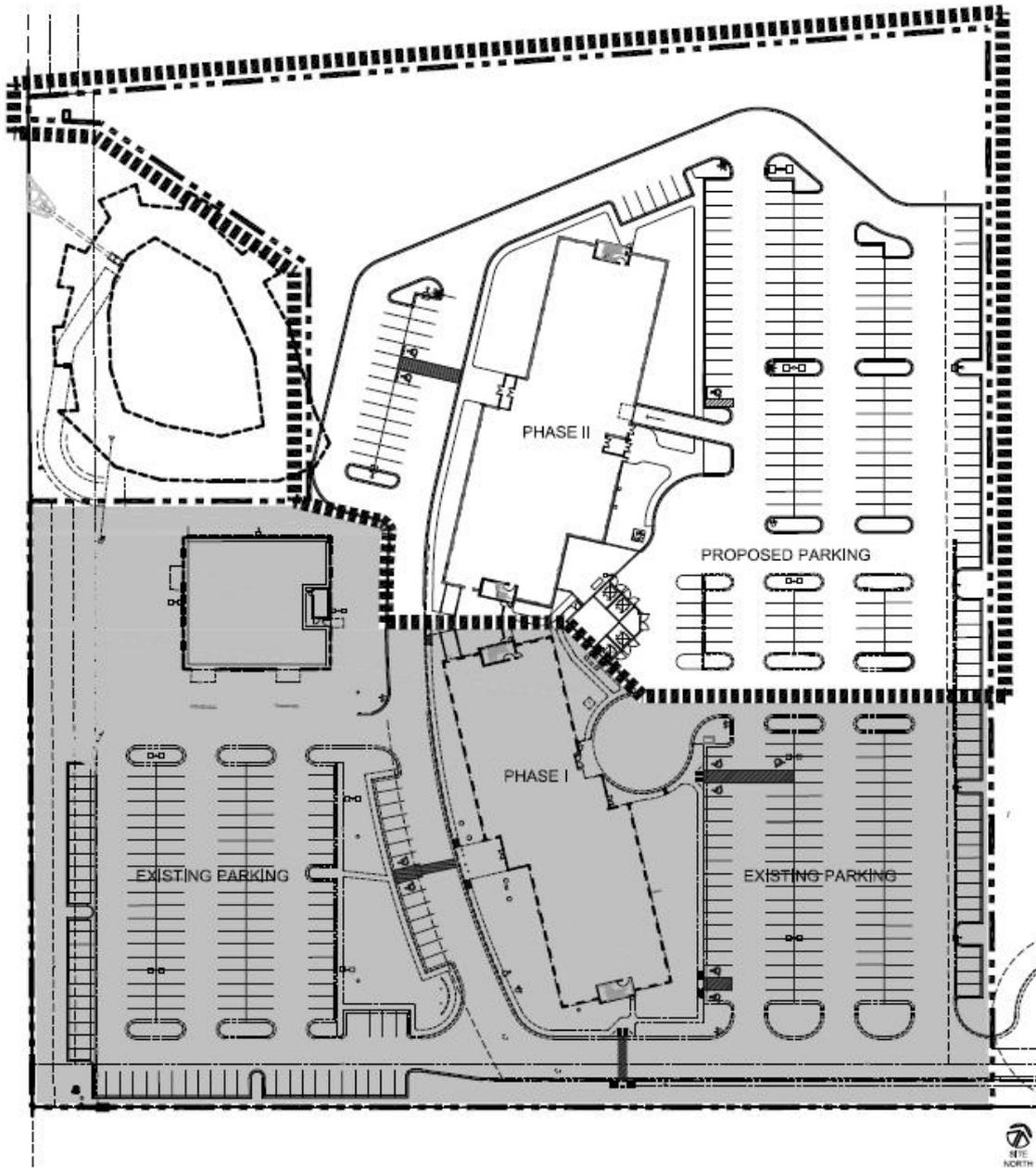
12515 and 12575 Academy Ridge View, Colorado Springs, CO 80921

Lot 1 in RT Logic Subdivision Filing No. 1, as amended by Affidavit of Correction, recorded October 17, 2005 at Reception No. 205165253 and Affidavit of Agreement recorded November 9, 2005 at Reception No. 205180227 in the City of Colorado Springs, County of El Paso, State of Colorado.

**Drawing of the Entire Parcel** (including the Property (i.e., shaded portion of the Entire Parcel) and the New Building Area (i.e., unshaded portion of the Entire Parcel)): (see next page)

B-1

4830-8668-1413.9  
STORE / RT Logic (Kratos)  
Lease Agreement (Existing Building Area)  
File No.: 7210/02-525.1



A-2

4830-8668-1413.9  
STORE / RT Logic (Kratos)  
Lease Agreement (Existing Building Area)  
File No.: 7210/02-525.1

**EXHIBIT C**

**INCOMING WIRE INSTRUCTIONS**

Please give these instructions to your bank when you initiate a wire payment to STORE CAPITAL ACQUISITIONS, LLC:

Bank Name: PNC Bank  
500 First Ave, 3<sup>rd</sup> Floor  
Pittsburgh, PA 15219  
ABA: 043000096  
Account No.: 1006967647  
Credit: Midland Wire Receipts  
Reference: RT Logic (Kratos)

\* This information must be completed fully and accurately to ensure that there is no delay in crediting funds to the proper account.

C-1

**EXHIBIT D**

**STATE-SPECIFIC PROVISIONS**

None.

D-1

4830-8668-1413.9  
STORE / RT Logic (Kratos)  
Lease Agreement (Existing Building Area)  
File No.: 7210/02-525.1

## SCHEDULE 8.01

### PROHIBITED USES

1. Adult bookstore, video store or other establishment engaged in the business of selling, renting, exhibiting or delivering pornographic or obscene materials, except that this provision shall not prohibit (a) book stores that are not perceived to be and do not hold themselves out as an "adult book store" and are primarily engaged in the sale of general audience books notwithstanding the incidental concurrent sale of books, magazines and/or periodicals that may contain pornographic materials, or (b) video stores primarily selling or renting video media that on the date of this Lease would be "G" "PG-13" or "R" rated (or an equivalent rating under any rating system that hereafter replaces the current system and is in general use), notwithstanding the incidental concurrent rental of "X-rated" or "Not Rated" video media solely for off premises viewing and without means of on premises review in connection with its selection; provided that such bookstore or video store does not engage in any promotion, advertising, depiction or description of any aspect of the X-rated or Not Rated" material of any kind, that the sale or rental thereof is not from any special or segregated section of the store, and that the sale or rental of such material to minors is prohibited;
2. So-called "head shops" or other establishments primarily engaged in the sale of merchandise that facilitates enhances, promotes or encourages the use of illegal drugs under federal, state and/or local law;
3. Off-track betting parlor;
4. Pawn shop;
5. "Second hand," "slightly used" or other businesses or activities primarily engaged in the sale of used merchandise;
6. Junk yard or flea market;
7. Stockyard or recycling facility;
8. Motor vehicle or boat storage facility;
9. Billiard parlor;
10. Dry cleaning or laundry plant (which shall not preclude a dry cleaning or laundry business);
11. Living quarters, sleeping apartments, or lodging rooms;
12. Mortuary;
13. Massage parlor; or
14. Refining, quarrying or mining operations of any kind.

## LEASE AGREEMENT

**THIS LEASE AGREEMENT** (this "Lease") is made as of May 31, 2017 (the "Effective Date"), by and between **STORE CAPITAL ACQUISITIONS, LLC**, a Delaware limited liability company ("Lessor"), whose address is 8377 E. Hartford Drive, Suite 100, Scottsdale, Arizona 85255, and **REAL TIME LOGIC, INC.**, a Colorado corporation ("Lessee"), whose address is 12515 Academy Ridge View, Colorado Springs, Colorado 80921. Capitalized terms not defined herein shall have the meanings set forth in Exhibit A hereto.

In consideration of the mutual covenants and agreements herein contained, Lessor and Lessee hereby covenant and agree as follows:

### ARTICLE I

#### BASIC LEASE TERMS

**Section 1.01. Property.** A portion of the real property and improvements commonly known as 12515 and 12575 Academy Ridge View, Colorado Springs, CO 80921, as more specifically described on Exhibit B, attached hereto and incorporated herein.

**Section 1.02. Initial Term Expiration Date.** The date that occurs fifteen (15) years from the last day of the month of the Rent Commencement Date.

**Section 1.03. Extension Options.** Two (2) extensions of five (5) years each, as described in Section 3.02.

**Section 1.04. Term Expiration Date (if fully extended).** The date that occurs twenty-five (25) years from the last day of the month of the Rent Commencement Date.

**Section 1.05. Initial Base Annual Rental.** Initial Base Annual Rental shall be calculated on the first to occur of the Final Disbursement or the Rent Commencement Date. In the event the Rent Commencement Date occurs prior to the Final Disbursement, initial Base Annual Rental shall be equal to the then-actual aggregate disbursed Construction Funds multiplied by a capitalization rate of 7.75%. Notwithstanding the forgoing, in connection with the Final Disbursement, Base Annual Rental shall be calculated or re-calculated, as applicable, and shall be equal to the then-actual aggregate disbursed Construction Funds multiplied by a capitalization rate of 8%; *provided, however*, that in no event shall Lessee be responsible for commencing Base Annual Rental payments prior to the Rent Commencement Date.

**Section 1.06. Construction Funds.** The amount to be disbursed by Lessor pursuant to the Disbursement Agreement; *provided, however*, that solely for purposes of calculating Base Annual Rental, the "Construction Funds" shall in no event exceed \$24,159,364.

**Section 1.07. Rental Adjustment.** The lesser of (i) 2%, or (ii) 1.0 times the change in the Price Index, as described in Section 4.02.

**Section 1.08. Adjustment Date.** The first day of the thirteenth month following the Rent Commencement Date, and annually thereafter during the Lease Term (including any Extension Term).

**Section 1.09. Guarantor.** Kratos Defense & Security Solutions, Inc.

**Section 1.10. Lessee Tax Identification No.** 74-3063615.

**Section 1.11. Lessor Tax Identification No.** 45-2674893.

## ARTICLE II

### LEASE OF PROPERTY

**Section 2.01. Lease.** In consideration of Lessee's payment of the Rental and other Monetary Obligations and Lessee's performance of all other obligations hereunder, Lessor hereby leases to Lessee, and Lessee hereby takes and hires, the Property, "AS IS" and "WHERE IS" without representation or warranty by Lessor, and subject to the existing state of title, the parties in possession, any statement of facts which an accurate survey or physical inspection might reveal, and all Legal Requirements now or hereafter in effect.

**Section 2.02. Quiet Enjoyment.** So long as Lessee shall pay the Rental and other Monetary Obligations provided in this Lease and shall keep and perform all of the terms, covenants and conditions on its part contained herein and subject to the rights of Lessor under Section 12.02, Lessee shall have, subject to the terms and conditions set forth herein, the right to the peaceful and quiet enjoyment and occupancy of the Property.

**Section 2.03. Termination of Lease.** Notwithstanding any provision contained herein, prior to or simultaneously with the Final Disbursement (but with "Effective Dates" that are the same date as the later to occur of the Final Disbursement or the Rent Commencement Date, Lessee and Lessor agree to execute a termination of this Lease and to execute an amendment and restatement of the Existing Building Lease to expand the definition of "Property" therein to include all of the parcel or parcels of real estate, including all buildings, fixtures and other improvements located on the real estate commonly known as 12515 and 12575 Academy Ridge View, Colorado Springs, CO 80921, and legally described on Exhibit B, attached hereto and incorporated herein (the "Entire Parcel"). Such amendment and restatement of the Existing Building Lease shall be in substantially the same form as attached to the Disbursement Agreement, and shall, among other things, (a) modify the definition of "Property" as defined in the Existing Building Lease to describe the Entire Parcel; (b) increase the Base Annual Rental of the Existing Building Lease to reflect the inclusion of the Property (defined herein) and the Existing Building Area; (c) reset the Initial Term of the Existing Building Lease to be fifteen (15) years from the amendment and restatement of the Existing Building Lease, and (d) make such other changes reasonably necessary to reflect the expansion of the definition of "Property" as defined in the Existing Building Lease and convert the Existing Building Lease into a master lease.

**Section 2.04. Warranty License.** Lessor hereby grants to Lessee during the Lease Term a license to use and enforce all warranties, guaranties, indemnities and similar rights (collectively, the "Warranties") which Lessor may have against any manufacturer, seller, engineer, contractor or

builder in respect of any of the Property. Such license shall remain in effect until the expiration or earlier termination of this Lease, whereupon such license shall cease and Lessee shall have no further rights with respect to all of the Warranties without any further notice. Lessor shall also retain the right to enforce any Warranties upon the occurrence of an Event of Default. Lessee shall enforce the Warranties in accordance with their respective terms.

### ARTICLE III

#### LEASE TERM; EXTENSION

**Section 3.01. Initial Term.** The initial term of this Lease ("Initial Term") shall commence as of the Effective Date and shall expire at midnight the day that occurs (15) years from the last day of the month of the Rent Commencement Date, unless terminated sooner as provided in this Lease and as may be extended as provided herein. The time period during which this Lease shall actually be in effect from and after the Effective Date, including any Extension Term, is referred to as the "Lease Term."

**Section 3.02. Extensions.** Unless this Lease has expired or has been sooner terminated, or an Event of Default has occurred and is continuing at the time any extension option is exercised, Lessee shall have the right and option (each, an "Extension Option") to extend the Initial Term for the Property for two (2) additional successive periods of five (5) years each (each, an "Extension Term"), pursuant to the terms and conditions of this Lease then in effect.

**Section 3.03. Notice of Exercise.** Lessee may only exercise the Extension Options by giving written notice thereof to Lessor of its election to do so no later than one hundred twenty (120) days prior to the expiration of the then-current Lease Term. If written notice of the exercise of any Extension Option is not received by Lessor by the applicable dates described above, then this Lease shall terminate on the last day of the Initial Term or, if applicable, the last day of the Extension Term then in effect. Upon the request of Lessor or Lessee, the parties hereto will, at the expense of the requesting party, execute and exchange an instrument in recordable form setting forth the extension of the Lease Term in accordance with this Section 3.03.

**Section 3.04. Removal of Personalty.** Upon the expiration of the Lease Term, and if there is no then-existing continuing Event of Default, Lessee may remove from the Property all personal property (subject to any rights of Lessee's Institutional Lenders) belonging to Lessee. Lessee shall repair any damage caused by such removal and shall leave the Property clean and in good and working condition and repair inside and out, subject to normal wear and tear, casualty and condemnation. Any property of Lessee left on the Property on the tenth day following the expiration of the Lease Term shall, at Lessor's option, automatically and immediately become the property of Lessor.

### ARTICLE IV

#### RENTAL AND OTHER MONETARY OBLIGATIONS

**Section 4.01. Base Monthly Rental.** Beginning on the Rent Commencement Date and throughout the Lease Term, on or before the first day of each calendar month, Lessee shall pay in advance the Base Monthly Rental then in effect. If the Rent Commencement Date is a date

other than the first day of the month, Lessee shall pay to Lessor on the Rent Commencement Date the Base Monthly Rental prorated by multiplying the Base Monthly Rental by a fraction, the numerator of which is the number of days remaining in the month (including the Rent Commencement Date) for which Rental is being paid, and the denominator of which is the total number of days in such month.

**Section 4.02. Adjustments.** During the Lease Term (including any Extension Term), on the first Adjustment Date and on each Adjustment Date thereafter, the Base Annual Rental shall increase by an amount equal to the Rental Adjustment; *provided, however,* that in no event shall Base Annual Rental be reduced as a result of the application of the Rental Adjustment.

**Section 4.03. Additional Rental.** Lessee shall pay and discharge, as additional rental ("Additional Rental"), all sums of money required to be paid by Lessee under this Lease which are not specifically referred to as Rental. Lessee shall pay and discharge any Additional Rental when the same shall become due, provided that amounts which are billed to Lessor or any third party, but not to Lessee, shall be paid within fifteen (15) Business Days after Lessor's demand for payment thereof or, if earlier, when the same are due. In no event shall Lessee be required to pay to Lessor any item of Additional Rental that Lessee is obligated to pay and has paid to any third party pursuant to any provision of this Lease.

**Section 4.04. Rentals to be Net to Lessor.** The Base Annual Rental payable hereunder shall be net to Lessor, so that this Lease shall yield to Lessor the Rentals specified during the Lease Term, and all Costs and obligations of every kind and nature whatsoever relating to the Property shall be performed and paid by Lessee, except as stated elsewhere in the Lease. Lessee shall perform all of its obligations under this Lease at its sole cost and expense. All Rental and other Monetary Obligations which Lessee is required to pay hereunder shall be the unconditional obligation of Lessee and shall be payable in full when due and payable, without notice or demand, and without any setoff, abatement, deferment, deduction or counterclaim whatsoever (except for any Monetary Obligations that arise from Lessor's gross negligence or willful misconduct).

**Section 4.05. Wire Transfer.** Payments of the Base Monthly Rental and any other Monetary Obligations payable to Lessor hereunder shall be paid in immediately available funds to the account identified on Exhibit C attached hereto, or to any other account as Lessor may from time to time designate to Lessee. Each such payment shall be made by Lessee by wire or other electronic transfer of funds, or automatic debit from an account designated by Lessee if so elected by Lessee. Lessee shall continue to pay all Rental and other Monetary Obligations in such manner unless otherwise directed by Lessor. Notwithstanding the foregoing, in the event that Lessee fails, more than twice during any calendar year, to pay the Base Monthly Rental by wire or other electronic transfer of funds when due, Lessee shall deliver to Lessor a complete Authorization Agreement – Pre-Arranged Payments in the form provided by Lessor together with a voided check for account verification, establishing arrangements whereby payments of the Base Monthly Rental are transferred by Automated Clearing House Debit initiated by Lessor.

**Section 4.06. Late Charges; Default Interest.** Any delinquent payment not made within three (3) Business Days of the date such payment is due (provided that such three (3) Business Day grace period shall only be available once in any twelve (12) month period) shall, in addition to any other remedy of Lessor, incur a late charge of five percent (5%) (which late charge is intended to compensate Lessor for the cost of handling and processing such delinquent payment and should

not be considered interest) and bear interest at the Default Rate, such interest to be computed from and including the date such payment was due through and including the date of the payment; provided, however, in no event shall Lessee be obligated to pay a sum of late charge and interest higher than the maximum legal rate then in effect.

**Section 4.07. Holdover.** If Lessee remains in possession of the Property after the expiration of the term hereof, Lessee, at Lessor's option and within Lessor's sole discretion, may be deemed a tenant on a month-to-month basis and shall continue to pay Rentals and other Monetary Obligations in the amounts herein provided, except that the Base Monthly Rental shall be automatically increased to one hundred twenty-five percent (125%) of the last Base Monthly Rental payable under this Lease, and Lessee shall comply with all the terms of this Lease; provided that nothing herein nor the acceptance of Rental by Lessor shall be deemed a consent to such holding over. Lessee shall defend (using counsel chosen by Lessee and approved by Lessor), indemnify, protect and hold the Indemnified Parties harmless from and against any and all Losses resulting from Lessee's failure to surrender possession upon the expiration of the Lease Term.

**Section 4.08. Guaranty.** On or before the execution of this Lease, Lessee shall cause Guarantor to execute and deliver to Lessor the Guaranty.

**Section 4.09. Security Deposit.**

(a) Lessee has paid the Security Deposit (as defined in the Existing Building Lease) to Lessor as security for the full and faithful performance by Lessee of each and every term, provision, covenant and condition of this Lease and the Existing Building Lease. Upon the occurrence of an Event of Default (pursuant to this Lease or the Existing Building Lease), Lessor may, but shall not be required to, use, apply or retain the whole or any part of the Security Deposit for the payment of any Monetary Obligation (including Rental) in default or for any other sum which Lessor may expend or be required to expend by reason of Lessee's default, including any damages or deficiency in the reletting of the Property, whether such damages or deficiency accrue before or after summary proceedings or other re-entry by Lessor; *provided, however*, that each time Lessor so uses any amount of the Security Deposit, (a) Lessee shall have fifteen (15) days to replenish the Security Deposit as described in this Section 4.09(a) before such deficiency begins to bear interest at the Default Rate (which shall thereafter accrue until the Security Deposit has been replenished), and (b) Lessee shall, within thirty (30) days after Lessor's written request therefor, deposit additional money with Lessor sufficient to restore the Security Deposit to a sum equal to the original amount of the Security Deposit (or the reduced amount of the Security Deposit if reduced pursuant to Section 4.09(c), below).

(b) If Lessee shall fully and faithfully comply with all of the terms, provisions, covenants and conditions of this Lease and the Existing Building Lease, the Security Deposit, or any balance thereof, shall be returned to Lessee after the time fixed as the expiration of the Lease Term of both this Lease and the Existing Building Lease and after the removal of Lessee and surrender of possession of the Property and the Existing Building Area to Lessor. In the absence of evidence satisfactory to Lessor of an assignment of the right to receive the Security Deposit, or the remaining balance thereof, Lessor may return the security to the original Lessee, regardless of one or more assignments of this Lease and/or the Existing Building Lease. In case of a sale or transfer of the fee of the Property and the Existing Building Area, or any cessation of Lessor's interest therein (including in connection with a Lessor bankruptcy or a Lessor default under any of

its loans), whether in whole or in part, Lessor shall pay over any unapplied part of the Security Deposit to the succeeding owner of the Property and/or the Existing Building Area and from and after such payment Lessor shall be relieved of all liability with respect thereto so long as such succeeding owner acknowledges receipt of the Security Deposit (or any remaining portion thereof), in writing, and a copy of such writing is provided to Lessee. The provisions of the preceding sentence shall apply to every subsequent sale or transfer of the fee of the Property and/or the Existing Building Area, and any successor of Lessor may, upon a sale, transfer or other cessation of the interest of such successor in the Property and/or the Existing Building Area, whether in whole or in part, pay over any unapplied part of the Security Deposit to the successor owner of the Property and/or the Existing Building Area and shall thereupon be relieved of all liability with respect thereto so long as such succeeding owner acknowledges receipt of the Security Deposit (or any remaining portion thereof), in writing, and a copy of such writing is provided to Lessee.

## ARTICLE V

### REPRESENTATIONS AND WARRANTIES

The representations and warranties of each party contained in this Article V are being made to induce the other party to enter into this Lease, and the parties have relied, and will continue to rely, upon such representations and warranties.

**With respect to Sections 5.01 through 5.07, Lessee represents and warrants to Lessor as follows:**

**Section 5.01. Organization, Authority and Status of Lessee.** Lessee has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation and is qualified as a foreign corporation to do business in any jurisdiction where such qualification is required. All necessary and appropriate action has been taken to authorize the execution, delivery and performance by Lessee of this Lease and of the other documents, instruments and agreements provided for herein. Lessee is not, and if Lessee is a "disregarded entity," the owner of such disregarded entity is not, a "nonresident alien," "foreign corporation," "foreign partnership," "foreign trust," "foreign estate," or any other "person" that is not a "United States Person" as those terms are defined in the Code and the regulations promulgated thereunder. The Person who has executed this Lease on behalf of Lessee is duly authorized to do so.

**Section 5.02. Enforceability.** This Lease constitutes the legal, valid and binding obligation of Lessee, enforceable against Lessee in accordance with its terms.

**Section 5.03. Litigation.** There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving any Lessee Entity or the Property before any arbitrator or Governmental Authority which might reasonably result in any Material Adverse Effect.

**Section 5.04. Absence of Breaches or Defaults.** Lessee is not in default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property or any of Lessee's property is subject or bound, which has had, or could reasonably be expected to result in, a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessee is a party or by which Lessee, the Property or any of Lessee's property is subject or bound.

**Section 5.05. Compliance with OFAC Laws.** None of the Lessee Entities, and no individual or entity owning directly or indirectly any interest in any of the Lessee Entities, is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws or is otherwise in violation of any of the OFAC Laws; *provided, however,* that the representation contained in this sentence shall not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

**Section 5.06. Solvency.** There is no contemplated, pending or threatened Insolvency Event or similar proceedings, whether voluntary or involuntary, affecting Lessee or any Lessee Entity. Lessee does not have unreasonably small capital to conduct its business.

**Section 5.07. Ownership.** None of (i) Lessee, (ii) any Affiliate of Lessee, or (iii) any Person owning ten percent (10%) or more of Lessee, owns, directly or indirectly, ten percent (10%) or more of the total voting power or total value of capital stock in STORE Capital Corporation.

**With respect to Sections 5.08 through 5.13, Lessor represents and warrants to Lessee as follows:**

**Section 5.08. Organization, Authority and Status of Lessor.** Lessor has been duly organized or formed, is validly existing and in good standing under the laws of its state of formation and is qualified as a foreign corporation to do business in Colorado. All necessary and appropriate action has been taken to authorize the execution, delivery and performance by Lessor of this Lease and of the other documents, instruments and agreements provided for herein. Lessor is not, and if Lessor is a "disregarded entity," the owner of such disregarded entity is not, a "nonresident alien," "foreign corporation," "foreign partnership," "foreign trust," "foreign estate," or any other "person" that is not a "United States Person" as those terms are defined in the Code and the regulations promulgated thereunder. The Person who has executed this Lease on behalf of Lessor is duly authorized to do so.

**Section 5.09. Enforceability.** This Lease constitutes the legal, valid and binding obligation of Lessor, enforceable against Lessor in accordance with its terms.

**Section 5.10. Litigation.** There are no suits, actions, proceedings or investigations pending, or to the best of its knowledge, threatened against or involving any Lessor Entity or the Property before any arbitrator or Governmental Authority which might reasonably result in any Material Adverse Effect.

**Section 5.11. Absence of Breaches or Defaults.** Lessor is not in default under any document, instrument or agreement to which Lessor is a party or by which Lessor, the Property or any of Lessor's property is subject or bound, which has had, or could reasonably be expected to result in, a Material Adverse Effect. The authorization, execution, delivery and performance of this Lease and the documents, instruments and agreements provided for herein will not result in any breach of or default under any document, instrument or agreement to which Lessor is a party or by which Lessor, the Property or any of Lessor's property is subject or bound.

**Section 5.12. Compliance with OFAC Laws.** None of Lessor or any individual or entity owning directly or indirectly any interest in any of Lessor, is an individual or entity whose property or interests are subject to being blocked under any of the OFAC Laws or is otherwise in violation of any of the OFAC Laws; provided, however, that the representation contained in this sentence shall not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

**Section 5.13. Solvency.** There is no contemplated, pending or threatened Insolvency Event or similar proceedings, whether voluntary or involuntary, affecting Lessor or any Lessor Entity. Lessor does not have unreasonably small capital to conduct its business.

## ARTICLE VI

### TAXES AND ASSESSMENTS; UTILITIES; INSURANCE

#### Section 6.01. Taxes.

(a) **Payment.** Throughout the Lease Term, subject to the provisions of Section 6.01(b) below, Lessee shall pay, prior to the earlier of delinquency or the accrual of interest on the unpaid balance, all taxes and assessments of every type or nature assessed against or imposed upon the Property, Lessee or Lessor during the Lease Term related to or arising out of this Lease and the activities of the parties hereunder, including without limitation, (i) all taxes or assessments upon the Property or any part thereof and upon any personal property, trade fixtures and improvements located on the Property, whether belonging to Lessor or Lessee, or any tax or charge levied in lieu of such taxes and assessments; (ii) all taxes, charges, license fees and or similar fees imposed by reason of the use of the Property by Lessee; (iii) all excise, franchise, transaction, privilege, license, sales, use and other taxes upon the Rental or other Monetary Obligations hereunder, the leasehold estate of either party or the activities of either party pursuant to this Lease; and (iv) all franchise, privilege or similar taxes of Lessor calculated on the value of the Property or on the amount of capital apportioned to the Property. Notwithstanding anything in clauses (i) through (iv) to the contrary, Lessee shall not be obligated to pay or reimburse Lessor for any taxes based on the net income of Lessor.

(b) **Right to Contest.** Within thirty (30) days after each tax and assessment payment is required by this Section 6.01 to be paid, Lessee shall provide Lessor with evidence reasonably satisfactory to Lessor that taxes and assessments have been timely paid by Lessee. In the event Lessor receives a tax bill, Lessor shall use commercially reasonable efforts to forward said bill to Lessee within fifteen (15) days of Lessor's receipt thereof. Lessee may, at its own expense, contest or cause to be contested (in the case of any item involving more than \$10,000, after prior written notice to Lessor, which shall be given within fifteen (15) days of Lessee's

determination to contest any matter as permitted herein), by appropriate legal proceedings conducted in good faith and with due diligence, any above-described item or lien with respect thereto, provided that (i) neither the Property nor any interest therein would be in any danger of being sold, forfeited or lost by reason of such proceedings; (ii) no Event of Default has occurred and is continuing; (iii) if and to the extent required by the applicable taxing authority and/or Lessor, Lessee posts a bond or takes other steps acceptable to such taxing authority and/or Lessor that removes such lien or stays enforcement thereof; (iv) Lessee shall promptly provide Lessor with copies of all notices received or delivered by Lessee and filings made by Lessee in connection with such proceeding; and (v) upon termination of such proceedings, it shall be the obligation of Lessee to pay the amount of any such tax and assessment or part thereof as finally determined in such proceedings, the payment of which may have been deferred during the prosecution of such proceedings, together with any costs, fees (including attorneys' fees and disbursements), interest, penalties or other liabilities in connection therewith. Lessor shall at the request of Lessee, execute or join in the execution of any instruments or documents necessary in connection with such contest or proceedings, but Lessor shall incur no cost or obligation thereby.

**Section 6.02. Utilities.** Lessee shall contract, in its own name, for and pay when due all charges for the connection and use of water, gas, electricity, telephone, garbage collection, sewer use and other utility services supplied to the Property during the Lease Term. Under no circumstances shall Lessor be responsible for any interruption of any utility service, unless caused by Lessor's gross negligence or willful misconduct.

**Section 6.03. Insurance.**

(a) **Coverage.** Throughout the Lease Term, Lessee shall maintain, with respect to the Property, at its sole expense, the following types and amounts of insurance, in addition to such other insurance as Lessor may reasonably require from time to time:

(i) Insurance against loss or damage to real property and personal property under an "all risk" or "special form" insurance policy, which shall include coverage against all risks of direct physical loss, including but not limited to loss by fire, lightning, wind, terrorism, and other risks normally included in the standard ISO special form (and shall also include National Flood and Excess Flood insurance if the Property is located in Flood Zone A or Flood Zone V, as designated by FEMA, or otherwise located in a flood zone area identified by FEMA as a 100-year flood zone or special hazard area, and earthquake insurance if the Property is located within a moderate to high earthquake hazard zone as determined by an approved insurance company set forth in Section 6.03(b)(x) below). Such policy shall also include soft costs, a joint loss agreement, coverage for ordinance or law covering the loss of value of the undamaged portion of the Property, costs to demolish and the increased costs of construction if any of the improvements located on, or the use of, the Property shall at any time constitute legal non-conforming structures or uses. Ordinance or law limits shall be in an amount equal to the full replacement cost for the loss of value of the undamaged portion of the Property and no less than 25% of the replacement cost for costs to demolish and the increased cost of construction, or in an amount otherwise specified by Lessor. Such insurance shall be in amounts not less than 100% of the full insurable replacement cost values (without deduction for depreciation), with an agreed amount endorsement or without any coinsurance provision, and with sublimits satisfactory to Lessor, as determined from time to time at Lessor's request but not more frequently than once in any 12-month period.

(ii) Commercial general liability insurance, including products and completed operation liability, covering Lessor and Lessee against bodily injury liability, property damage liability and personal and advertising injury, including without limitation any liability arising out of the ownership, maintenance, repair, condition or operation of the Property or adjoining ways, streets, parking lots or sidewalks. Such insurance policy or policies shall contain a broad form contractual liability endorsement under which the insurer agrees to insure Lessee's obligations under Article X hereof to the extent insurable, and a "severability of interest" clause or endorsement which precludes the insurer from denying the claim of Lessee or Lessor because of the negligence or other acts of the other, shall be in amounts of not less than \$10,000,000 per occurrence for bodily injury and property damage, and \$10,000,000 general aggregate per location, or such higher limits as Lessor may reasonably require from time to time, and shall be of form and substance satisfactory to Lessor. Such limits of insurance can be acquired through Commercial General liability and Umbrella liability policies.

(iii) Workers' compensation and Employers Liability insurance with statutorily mandated limits covering all persons employed by Lessee on the Property in connection with any work done on or about the Property for which claims for death or bodily injury could be asserted against Lessor, Lessee or the Property.

(iv) Business interruption insurance including Rental Value Insurance payable to Lessor at all locations for a period of not less than twelve (12) months. Such insurance is to follow the form of the real property "all risk" or "special form" coverage and is not to contain a co-insurance clause. Such insurance is to have a minimum of 180 days of extended period of indemnity.

(v) Automobile liability insurance, including owned, non-owned and hired car liability insurance for combined limits of liability of \$2,000,000 per occurrence. The limits of liability can be provided in a combination of an automobile liability policy and an umbrella liability policy.

(vi) Comprehensive Boiler and Machinery or Equipment Breakdown Insurance against loss or damage from explosion of any steam or pressure boilers or similar apparatus, if any, and other building equipment including HVAC units located in or about the Property and in an amount equal to the lesser of 25% of the 100% replacement cost of the Property or \$5,000,000.

(b) **Insurance Provisions.** All insurance policies shall:

(i) provide for a waiver of subrogation by the insurer as to claims against Lessor, its employees and agents;

(ii) be primary and provide that any "other insurance" clause in the insurance policy shall exclude any policies of insurance maintained by Lessor and the insurance policy shall not be brought into contribution with insurance maintained by Lessor;

(iii) contain deductibles not to exceed \$100,000;

(iv) contain a standard non-contributory mortgagee clause or endorsement in favor of any Lender designated by Lessor;

(v) provide that the policy of insurance shall not be terminated, cancelled or materially amended (such that the policy is no longer in compliance with the requirements of this Lease) without at least thirty (30) days' prior written notice from Lessee to Lessor and to any Lender covered by any standard mortgagee clause or endorsement;

(vi) provide that the insurer shall not have the option to restore the Property if Lessor elects to terminate this Lease in accordance with the terms hereof;

(vii) be in amounts sufficient at all times to satisfy any coinsurance requirements thereof;

(viii) except for workers' compensation insurance referred to in Section 6.03(a)(iii) above and automobile liability insurance referred to in Section 6.03(a)(v) above, name Lessor and any Lessor Affiliate or Lender requested by Lessor, as an "additional insured" with respect to liability insurance, and as an "additional named insured" or "additional insured" with respect to real property and rental value insurance, as appropriate and as their interests may appear;

(ix) be evidenced by delivery to Lessor and any Lender designated by Lessor of an Acord Form 28 for property, business interruption and boiler & machinery coverage (or any other form requested by Lessor) and an Acord Form 25 for commercial general liability, workers' compensation and umbrella coverage (or any other form requested by Lessor); provided that in the event that either such form is no longer available, such evidence of insurance shall be in a form reasonably satisfactory to Lessor and any Lender designated by Lessor; and

(x) be issued by insurance companies licensed to do business in the states where the Property is located and which are rated no less than A-X by Best's Insurance Guide or are otherwise approved by Lessor.

(c) **Additional Obligations.** It is expressly understood and agreed that (i) if any insurance required hereunder, or any part thereof, shall expire, be withdrawn, become void by breach of any condition thereof by Lessee, or become void or in jeopardy by reason of the failure or impairment of the capital of any insurer, Lessee shall immediately obtain new or additional insurance reasonably satisfactory to Lessor and any Lender designated by Lessor; (ii) the minimum limits of insurance coverage set forth in this Section 6.03 shall not limit the liability of Lessee for its acts or omissions as provided in this Lease; (iii) Lessee shall procure policies for all insurance for periods of not less than one year and shall provide to Lessor and any servicer or Lender of Lessor certificates of insurance or, upon Lessor's request, a redacted copy of insurance policies evidencing that insurance satisfying the requirements of this Lease is in effect at all times; (iv) Lessee shall pay as they become due all premiums for the insurance required by this Section 6.03; (v) in the event that Lessee fails to comply with any of the requirements set forth in this Section 6.03, within ten (10) Business Days of the giving of written notice by Lessor to Lessee, (A) Lessor shall be entitled to procure such insurance; and (B) any sums expended by Lessor in procuring such insurance shall be Additional Rental and shall be repaid by Lessee, together with interest thereon at the Default Rate, from the time of payment by Lessor until fully paid by Lessee within fifteen (15) days of written demand therefor by Lessor; and (vi) Lessee shall maintain all insurance policies required in this Section 6.03 not to be cancelled, invalidated or suspended on account of the conduct of Lessee, its officers, directors, managers, members, employees or agents, or anyone acting for Lessee or any subtenant or other occupant of the Property, and shall comply with all policy conditions and warranties at all times to avoid a forfeiture of all or a part of any insurance payment.

(d) **Blanket Policies.** Notwithstanding anything to the contrary in this Section 6.03, any insurance which Lessee is required to obtain pursuant to this Section 6.03 may be carried under a "blanket" policy or policies covering other properties or liabilities of Lessee provided that such "blanket" policy or policies otherwise comply with the provisions of this Section 6.03.

**Section 6.04. Tax Impound.** Upon the occurrence of a monetary Event of Default and with respect to each Event of Default, in addition to any other remedies, Lessor may require Lessee to pay to Lessor on the first day of each month the amount that Lessor reasonably estimates will be necessary in order to accumulate with Lessor sufficient funds in an impound account (which shall not be deemed a trust fund) (the "Reserve") for Lessor to pay any and all real estate taxes ("Real Estate Taxes") for the Property for the ensuing twelve (12) months, or, if due sooner, Lessee shall pay the required amount immediately upon Lessor's demand therefor. Lessor shall, upon prior written request of Lessee, provide Lessee with evidence reasonably satisfactory to Lessee that payment of the Real Estate Taxes was made in a timely fashion. In the event that the Reserve does not contain sufficient funds to timely pay any Real Estate Taxes, upon Lessor's written notification thereof, Lessee shall, within five (5) Business Days of such notice, provide funds to Lessor in the amount of such deficiency. Lessor shall pay or cause to be paid directly to the applicable taxing authorities any Real Estate Taxes then due and payable for which there are funds in the Reserve; *provided, however,* that in no event shall Lessor be obligated to pay any Real Estate Taxes in excess of the funds held in the Reserve, and Lessee shall remain liable for any and all Real Estate Taxes, including fines, penalties, interest or additional costs imposed by any taxing authority (unless incurred as a result of Lessor's failure to timely pay Real Estate Taxes for which it had funds in the Reserve). Lessee shall reasonably cooperate with Lessor in assuring that the Real Estate Taxes are timely paid. Lessor may deposit all Reserve funds in accounts

insured by any federal or state agency and may commingle such funds with other funds and accounts of Lessor. Interest or other gains from such funds, if any, shall be the sole property of Lessor. During the continuation of an Event of Default, and provided any Real Estate Taxes then due and payable have been paid, in addition to any other remedies, Lessor may apply all impounded funds in the Reserve against any sums due from Lessee to Lessor. Lessor shall give to Lessee an annual accounting showing all credits and debits to and from such impounded funds received from Lessee.

## ARTICLE VII

### MAINTENANCE; ALTERATIONS; INITIAL CONSTRUCTION

#### Section 7.01. Condition of Property; Maintenance.

(a) As of the Occupancy Date, Lessee shall be deemed to have accepted the Property "AS IS" and "WHERE IS" with no representation or warranty of Lessor as to the condition thereof. Following the Occupancy Date, unless necessitated by Lessor's gross negligence or willful misconduct, Lessee shall, at its sole cost and expense, be responsible for (i) keeping all of the building, structures and improvements erected on the Property in good order and repair, free from actual or constructive waste; (ii) the repair or reconstruction of any building, structures or improvements erected on the Property damaged or destroyed by a Casualty; (iii) subject to Section 7.02, making all necessary structural, non-structural, exterior and interior repairs and replacements to any building, structures or improvements erected on the Property; (iv) operating, remodeling, updating and modernizing the Property in accordance with those standards adopted from time to time on a system-wide basis for the Permitted Facility; (v) (A) ensuring that no party encroaches upon the Property, (B) protecting, defending (using counsel chosen by Lessee and approved by Lessor), indemnifying, releasing and holding the Indemnified Parties harmless from and against any and all claims and Losses arising out of or in any way relating to any encroachments and/or activities upon the Property caused by any Person; and (C) prosecuting any claims that Lessee seeks to bring against any Person relating to Lessee's use and possession of the Property; and (vi) paying all operating costs of the Property in the ordinary course of business. Following the Occupancy Date, Lessee waives any right to require Lessor to maintain, repair or rebuild all or any part of the Property or make repairs at the expense of Lessor pursuant to any Legal Requirements at any time in effect, unless such maintenance, repair, or rebuilding is necessitated by Lessor's gross negligence or willful misconduct.

(b) Notwithstanding anything set forth in Section 7.01(a) above, Lessor shall pay the cost of any Required Capital Improvement during the last five (5) years of the Lease Term in excess of \$50,000 cumulative on an annual basis ("Expenditure Cap") up to the actual cost of such Required Capital Improvement ("Lessor Expenditure"). Lessee shall reimburse Lessor such Lessor Expenditure through an increase in Base Annual Rental in an annual amount equal to the Lessor Expenditure divided by the Useful Life (as determined in Lessor's reasonable discretion) of such Required Capital Improvement. By way of example, if a roof replacement costs \$200,000 and has a Useful Life of 20 years, Lessee shall reimburse Lessor through an increase in Base Annual Rental equal to \$7,500 per year ( $1/20 \times \$150,000$ ). For purposes of this paragraph, a "*Required Capital Improvement*" shall mean a permanent structural change to the Property or the restoration of some aspect of the Property that will either enhance the Property's overall value or

increase its useful life and that is required to be completed by Lessee to remain in compliance with Section 7.01(a), as reasonably determined and agreed upon by Lessee and Lessor.

**Section 7.02. Alterations and Improvements.** Following the Occupancy Date and during the Lease Term, Lessee shall not alter the exterior, structural, plumbing or electrical elements of the Property in any manner without the consent of Lessor, which consent shall not be unreasonably withheld or conditioned; *provided, however*, Lessee may undertake nonstructural alterations to the Property, individually, costing less than \$150,000 (such limit shall increase by 2.0% each Lease year) without Lessor's prior written consent. If Lessor's consent is required hereunder and Lessor consents to the making of any such alterations, the same shall be made by Lessee at Lessee's sole expense by a licensed contractor and according to plans and specifications approved by Lessor and subject to such other conditions as Lessor shall reasonably require. Any work at any time commenced by Lessee on the Property shall be prosecuted diligently to completion, shall be of good workmanship and materials and shall comply fully with all the terms of this Lease and all Legal Requirements. Upon completion of any alterations individually costing \$150,000 or more, Lessee shall promptly provide Lessor with evidence of full payment to all laborers and materialmen contributing to the alterations. Additionally, upon completion of any alterations, Lessee shall promptly provide Lessor with (a) an architect's certificate certifying the alterations to have been completed in conformity with the plans and specifications (if the alterations are of such a nature as would require the issuance of such a certificate from the architect); (b) a certificate of occupancy (if the alterations are of such a nature as would require the issuance of a certificate of occupancy); and (c) any other documents or information reasonably requested by Lessor. Following the Occupancy Date, Lessee shall keep the Property free from any liens arising out of any work performed on, or materials furnished to, the Property. Lessee shall execute and file or record, as appropriate, a "Notice of Non-Responsibility," or any equivalent notice permitted under applicable Law in the state where the Property is located which provides that Lessor is not responsible for the payment of any costs or expenses relating to the additions or alterations. Any addition to or alteration of the Property shall be deemed a part of the Property and belong to Lessor, and Lessee shall execute and deliver to Lessor such instruments as Lessor may reasonably require to evidence the ownership by Lessor of such addition or alteration.

**Section 7.03. Initial Construction of New Building.**

(a) Lessor shall engage the Developer for the construction of the New Building pursuant to the terms of a Development and Disbursement Agreement among Lessor and Developer, and acknowledged and agreed to by Lessee, dated as of the Effective Date (the "Disbursement Agreement"). Lessor shall cause Developer to design and construct the New Building in accordance with the architectural plans and drawings, the construction budget, and the construction schedule approved by Lessee and Lessor and attached to the Disbursement Agreement. Any change orders requested by Lessee must be approved by Developer and Lessor pursuant to the terms and conditions set forth in the Disbursement Agreement, provided that such change orders do not increase the aggregate amount of the Budget (as defined in the Disbursement Agreement). Any change orders requested by Lessor and/or Developer must be approved by Lessee pursuant to the terms and conditions set forth in the Disbursement Agreement, and Lessee's failure to respond shall be deemed approval. In no event shall Lessor be responsible for any costs in excess of the total amounts contemplated by the Disbursement Agreement unless the parties

agree to and execute an amendment to the Disbursement Agreement reflecting an increase in the Construction Funds approved by Lessor.

(b) Subject to commercially reasonable punch list items identified by Lessee or Lessor (the "Punch List Items"), Developer shall complete construction of the New Building by the date that occurs seventeen (17) months following the Construction Commencement Date (the "Completion Deadline"); *provided, however*, that the Completion Deadline may be extended or modified from time to time pursuant to the terms and conditions set forth herein or in connection with a change order requested by Lessee, a Casualty, a Partial Condemnation, a Force Majeure Event or any force majeure under the Disbursement Agreement. The construction of the New Building shall be deemed "complete" for purposes of this Section 7.03 when the state of completion will allow Lessee to occupy the New Building without material interference from Developer or any of Lessor's or Developer's contractors. In the event the New Building is not completed by the Completion Deadline (as may be extended from time to time), then, subject to the cure periods set forth in this subsection (b), Lessee shall have the option to terminate this Lease (the "Termination Option"). Lessee may only exercise the Termination Option by giving written notice to Lessor of its election to do so no later than thirty (30) days following the expiration of the Completion Deadline; *provided, however*, such termination shall only be effective in the event that Lessor and Developer are not able to complete the New Building within one hundred twenty (120) days of Lessor's receipt of such written notice (the "Initial Cure Period"). In the event the New Building cannot be completed within the Initial Cure Period, then:

(i) if Lessor is using commercially reasonable efforts to complete (or arrange for the completion of) the construction of such New Building, then (A) Lessor shall not be liable for any damage, loss, liability or expense caused thereby, and (B) Lessor shall have an additional ninety (90) days after the expiration of the Initial Cure Period to complete the New Building; or

(ii) if Lessor is not using commercially reasonable efforts to complete (or arrange for the completion of) the construction of such New Building, then Lessee shall have the right, but not the obligation, to take an additional ninety (90) days after the expiration of the Initial Cure Period to step in and to complete the New Building pursuant to the Budget (as defined in the Disbursement Agreement) and construction plans contemplated in the Disbursement Agreement and seek reimbursement for its costs and expenses from Lessor up to the remaining and available aggregate amount of the Construction Funds.

On the date of any termination pursuant to this Section 7.03(b), (A) all obligations of either party hereunder shall cease, other than those obligations explicitly stated herein to survive termination or expiration of this Lease, and (B) Lessor shall continue to hold the Security Deposit as security for the full and faithful performance by Lessee of each and every term, provision, covenant and condition of the Existing Building Lease, subject to the terms of Section 4.09 of such Existing Building Lease. If written notice of Lessee's decision to exercise its Termination Option is not received by Lessor within thirty (30) days following the expiration of the Completion Deadline, then Lessee shall automatically be deemed to have waived such Termination Option and the Termination Option described herein shall be of no further force or effect.

So long as construction of the New Building has been completed as of the Completion Deadline (as may be extended from time to time), Developer and/or Lessor shall be entitled to complete the Punch List Items after the Completion Deadline.

**Section 7.04. Encumbrances.** During the Lease Term, Lessor shall have the right to grant easements on, over, under and above the Property without the prior consent of Lessee (but with prior notice to Lessee), provided that such easements will not adversely interfere with Lessee's use of the Property. Lessee shall comply with and perform all obligations of Lessor under all easements, declarations, covenants, restrictions and other items of record now or hereafter encumbering the Property. Without Lessor's prior written consent, Lessee shall not grant any easements on, over, under or above the Property.

## ARTICLE VIII

### USE OF THE PROPERTY; COMPLIANCE

#### Section 8.01. Use and "Go Dark" Right.

(a) **Use.** Following the Occupancy Date and during the Lease Term, the Property shall be used solely for the operation of a Permitted Facility. Following the Occupancy Date and except during periods when the Property is untenable due to Casualty or Condemnation (and provided that Lessee continues to strictly comply with the other terms and conditions of this Lease), Lessee shall at all times during the Lease Term occupy the Property and shall diligently operate its business on the Property. In the event that Lessee shall change the use of the Property, only as may be expressly permitted herein or consented to by Lessor in writing, Lessee shall provide Lessor with written notice of any such change.

(b) **"Go Dark" Right.** Notwithstanding any provision contained herein, Lessee shall not be in default under this Section 8.01 until Lessee fails to continue to materially operate its business at the Property (excluding instances of Casualty, Condemnation and Force Majeure) for more than one hundred eighty (180) consecutive days. Thereafter, Lessee shall: (i) re-open the Property; or (ii) exercise Lessee's assignment or subletting rights as permitted under this Lease. Notwithstanding any provision contained in this Section 8.01(b), (A) Lessee shall provide Lessor with written notice at least ten (10) days prior to the Property "going dark," and (B) the terms and provisions of this Lease and Lessee's obligations hereunder shall remain in full force and effect during any "go dark" period, and (C) in no event shall Lessee "go dark" in any manner that would violate any Permitted Encumbrances in any material respect or give a third party any right to acquire title to the Property as a result of a Property "going dark."

**Section 8.02. Compliance.** Following the Occupancy Date, Lessee's use and occupation of the Property, and the condition thereof, shall, at Lessee's sole cost and expense, comply fully with all Legal Requirements and all restrictions, covenants and encumbrances of record, and any owner obligations under such Legal Requirements, or restrictions, covenants and encumbrances of record, with respect to the Property, in either event, the failure with which to comply could have a Material Adverse Effect. Without in any way limiting the foregoing provisions, Lessee shall comply with all Legal Requirements relating to anti-terrorism, trade embargos, economic sanctions, Anti-Money Laundering Laws, and the Americans with Disabilities Act of 1990, as such act may be amended from time to time, and all regulations promulgated thereunder, as it affects the Property now or hereafter in effect. Lessee shall obtain, maintain and comply with all required licenses and permits, both governmental and private, to use and operate the Properties as Permitted Facilities. Upon Lessor's written request from time to time during the Lease Term, Lessee shall certify in writing to Lessor that Lessee's representations, warranties and obligations under Section 5.05 and this Section 8.02 remain true and correct and have not been breached. Lessee shall immediately notify Lessor in writing if any of such representations, warranties or covenants are no longer true or have been breached or if Lessee has a reasonable basis to believe that they may no longer be true or have been breached. In connection with such an event, Lessee shall comply with all Legal Requirements and directives of Governmental Authorities and, at Lessor's request, provide to Lessor copies of all notices, reports and other communications exchanged with, or received from, Governmental Authorities relating to such an event. Lessee shall also reimburse Lessor for all Costs incurred by Lessor in evaluating the effect of such an event on the Property and this Lease, in obtaining any necessary license from Governmental Authorities as may be necessary for Lessor to enforce its rights under the Transaction Documents, and in complying with all Legal Requirements applicable to Lessor as the result of the existence of such an event and for any penalties or fines imposed upon Lessor as a result thereof. Lessee will use its reasonable efforts to prevent any act or condition to exist on or about the Property that will materially increase any insurance rate thereon, except when such acts are required in the normal course of its business and Lessee shall pay for such increase. Lessee agrees that it will defend (using counsel chosen by Lessee and approved by Lessor), indemnify and hold harmless the Indemnified Parties from and against any and all Losses caused by, incurred or resulting from Lessee's failure to comply with its obligations under this Section.

**Section 8.03. Environmental.**

(a) **Covenants.**

(i) Lessee covenants to Lessor during the Lease Term, subject to the limitations of subsection (ii) below, as follows:

(A) All uses and operations on or of the Property, whether by Lessee or any other Person invited by Lessee, shall be in compliance with all Environmental Laws and permits issued pursuant thereto.

(B) There shall be no Releases by Lessee or its invitees in, on, under or from the Property, except in Permitted Amounts.

(C) There shall be no Hazardous Materials or Regulated Substances in, on or under the Property brought on by Lessee or its invitees, except in Permitted

Amounts. Above and below ground storage tanks shall be properly permitted and only used as permitted.

(D) Lessee shall keep the Property or cause the Property to be kept free and clear of all Environmental Liens, whether due to any act or omission of Lessee or any other Person.

(E) Lessee shall not act or fail to act or allow any other tenant, occupant, guest, customer or other user of the Property to act or fail to act in any way that (1) materially increases a risk to human health or the environment, (2) poses an unreasonable or unacceptable risk of harm to any Person or the environment (whether on or off the Property), (3) has a Material Adverse Effect, (4) is contrary to any material requirement set forth in the insurance policies maintained by Lessee or Lessor, (5) constitutes a public or private nuisance or constitutes waste, (6) violates any covenant, condition, agreement or easement applicable to the Property, or (7) would result in any reopening or reconsideration of any prior investigation or causes a new investigation by a Governmental Authority having jurisdiction over the Property.

(F) Lessee shall, at its sole cost and expense, reasonably cooperate in all activities pursuant to this Section 8.04, including but not limited to providing all relevant information and making knowledgeable persons available for interviews.

(ii) Notwithstanding any provision of this Lease to the contrary, an Event of Default shall not be deemed to have occurred as a result of the failure of Lessee to satisfy any one or more of the covenants set forth in subsections (A) through (E) above provided that Lessee shall be in compliance with the requirements of any Governmental Authority with respect to the Remediation of any Release at the Property.

(b) **Notification Requirements.** Lessee shall immediately notify Lessor in writing upon Lessee obtaining actual knowledge of (i) any Releases or Threatened Releases in, on, under or from the Property other than in Permitted Amounts, or migrating towards the Property; (ii) any non-compliance with any Environmental Laws related in any way to the Property; (iii) any actual or potential Environmental Lien or activity use limitation; (iv) any required or proposed Remediation of environmental conditions relating to the Property required by applicable Governmental Authorities; and (v) any written or oral notice or other communication of which Lessee becomes aware from any source whatsoever (including but not limited to a Governmental Authority) relating in any way to Hazardous Materials, Regulated Substances or above or below ground storage tanks, or Remediation thereof at or on the Property, other than in Permitted Amounts, possible liability of any Person relating to the Property pursuant to any Environmental Law, other environmental conditions in connection with the Property, or any actual or potential administrative or judicial proceedings in connection with anything referred to in this Section. Lessee shall, upon Lessor's written request, deliver to Lessor a certificate stating that Lessee is and has been in full compliance with all of the environmental representations, warranties and covenants in this Lease.

(c) **Remediation.** Unless necessitated as a result of Lessor's gross negligence or willful misconduct, Lessee shall, at its sole cost and expense, and without limiting any other provision of this Lease, effectuate any Remediation required by any Governmental Authority of any condition (including, but not limited to, a Release or Threatened Release) in, on, under or from the Property and take any other reasonable action deemed necessary by any Governmental Authority for protection of human health or the environment. Should Lessee fail to undertake any required Remediation in accordance with the preceding sentence, Lessor, after written notice to Lessee and Lessee's failure to immediately undertake such Remediation, shall be permitted to complete such Remediation, and all Costs incurred in connection therewith shall be paid by Lessee. Any Cost so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be due within thirty (30) days of invoice from Lessee to Lessor.

(d) **Indemnification.** Lessee shall, at its sole cost and expense, protect, defend (using counsel chosen by Lessee and approved by Lessor), indemnify, release and hold harmless each of the Indemnified Parties from and against any and all Losses, including, but not limited to, all Costs of Remediation (whether or not performed voluntarily), arising prior to the expiration or earlier termination of this Lease (including any holdover periods) and arising out of or in any way relating to any Environmental Laws, Hazardous Materials, Regulated Substances, above or below ground storage tanks, or other environmental matters concerning the Property. It is expressly understood and agreed that Lessee's obligations under this Section shall survive the expiration or earlier termination of this Lease for any reason.

(e) **Right of Entry.** In the event that Lessor has a reasonable basis to believe that a Release or a violation of any Environmental Law has occurred, Lessor and any other Person designated by Lessor, including but not limited to any receiver, any representative of a Governmental Authority, and any environmental consultant, shall have the right, but not the obligation, to enter upon the Property at all reasonable times to assess any and all aspects of the environmental condition of the Property and its use, including but not limited to conducting any environmental assessment or audit (the scope of which shall be determined in Lessor's reasonable discretion) and taking samples of soil, groundwater or other water, air, or building materials, and conducting other invasive testing. Lessee shall reasonably cooperate with and provide access to Lessor and any other Person designated by Lessor. Any such assessment or investigation shall be at Lessee's sole cost and expense, to the extent such investigation was necessitated as a result of a breach of Lessee's obligations under this Section 8.03.

(f) **Survival.** The obligations of Lessee and the rights and remedies of Lessor under this Section 8.03 shall survive the termination, expiration and/or release of this Lease; provided, however, if Lessee provides Lessor with a Phase I environmental report with respect to any Property from a vendor approved by Lessor in its reasonable discretion, dated within thirty (30) days of the expiration or sooner termination of this Lease, which report is in all respects acceptable to Lessor (in its reasonable discretion), then in such event Lessee's obligations under this Section 8.03 with respect to such Property shall only survive the expiration or earlier termination of this Lease for a period of seven (7) years.

## ARTICLE IX

### ADDITIONAL COVENANTS

**Section 9.01. Performance at Lessee's Expense.** Lessee acknowledges and confirms that Lessor may collect its reasonable third-party out-of-pocket attorneys' fees, costs and expenses in connection with (a) any modification, amendment and termination of this Lease requested by Lessee (and not already contemplated in this Lease); (b) any release or substitution of Property requested by Lessee; (c) the procurement of consents, waivers and approvals with respect to the Property or any matter related to this Lease requested by Lessee; (d) the review of any assignment or sublease or proposed assignment or sublease or the preparation or review of any subordination or non-disturbance agreement requested by Lessee; (e) the collection, maintenance and/or disbursement of reserves created under this Lease or the other Transaction Documents (following an Event of Default); and (f) inspections reasonably required to make certain determinations under this Lease or the other Transaction Documents following Lessor's reasonable belief of a breach under this Lease or any other Transaction Documents.

**Section 9.02. Inspection.** Lessor and its authorized representatives shall have the right, at all reasonable times and upon giving reasonable prior notice (except in the event of an emergency, in which case no prior notice shall be required), to enter the Property or any part thereof and inspect the same. Except in the event of an emergency, any entry by Lessor under this Lease shall be subject to and in compliance with Lessee's security policies provided in writing to Lessor. Lessee hereby waives any claim for damages for any injury or inconvenience to or interference with Lessee's business, any loss of occupancy or quiet enjoyment of the Property and any other loss occasioned by such entry, but, subject to Section 10.01, excluding damages arising as a result of the gross negligence or willful misconduct of Lessor.

**Section 9.03. Financial Information.**

(a) **Financial Reporting.** From and after the Effective Date and unless or until Guarantor goes private, and subject to Section 9.03(c) below, within fourteen (14) Business Days from the date Guarantor files its annual Form 10-K, Lessee shall deliver to Lessor copies of Lessee's income statement and balance sheet for the prior fiscal year.

(b) **Financial Reporting if Guarantor Goes Private.** In the event that Guarantor ever goes private, and subject to Section 9.03(c) below, then within forty five (45) days after the end of each fiscal quarter and within one hundred twenty (120) days after the end of each fiscal year of Lessee and Guarantor, Lessee shall deliver to Lessor (i) complete consolidated financial statements for Guarantor and separate financial statements for Lessee, including a balance sheet, profit and loss statement, statement of stockholders' equity and statement of cash flows and all other related schedules for the fiscal period then ended, such statements to detail separately interest expense, income taxes, non-cash expenses, non-recurring expenses, operating lease expense and current portion of long-term debt – capital leases; and (ii) income statements for the business at the Property. All such financial statements shall be prepared in accordance with GAAP, and shall be certified to be accurate and complete by an officer or director of Lessee and Guarantor. In the event that Lessee's business at the Property is ordinarily consolidated with other business for financial statements purposes, a separate profit and loss statement shall be provided showing separately the sales, profits and losses pertaining to the Property with interest

expense, income taxes, non-cash expenses, non-recurring expenses and operating lease expense (rent), with the basis for allocation of overhead or other charges being clearly set forth therein. The financial statements delivered to Lessor pursuant to this paragraph need not be audited, but Lessee shall deliver to Lessor copies of any audited financial statements of the Lessee Reporting Entities which may be prepared, as soon as they are available.

(c) **Confidentiality.** Notwithstanding anything to the contrary above or elsewhere in this Lease, Lessor hereby agrees, for itself and its Affiliates, to maintain confidentiality and not disclose Lessee's or Guarantor's financial information (but excluding matters of public record or matters generally known to the public) to third parties except (i) as may be required for reporting to any Governmental Authority or otherwise required by Law, (ii) in connection with a Securitization or related transaction, (iii) to a Lender, or to Lessor's employees, contractors, attorneys, accountants and other Persons on a "need to know" basis ("Lessor Parties"), or to a prospective purchaser of a Property so long as such Lessor Parties and any prospective purchaser are aware of, and agree to comply with, the confidentiality provisions of this Section, or (iv) with Lessee's prior written consent (such consent not to be unreasonably withheld, conditioned or delayed).

**Section 9.04. OFAC Laws.** Upon receipt of notice or upon actual knowledge thereof, Lessee shall immediately notify Lessor in writing if any Person owning (directly or indirectly) any interest in any of the Lessee Entities, or any director, officer, shareholder, member, manager or partner of any of such holders is a Person whose property or interests are subject to being blocked under any of the OFAC Laws, or is otherwise in violation of any of the OFAC Laws, or is under investigation by any Governmental Authority for, or has been charged with, or convicted of, drug trafficking, terrorist-related activities or any violation of the Anti-Money Laundering Laws, has been assessed civil penalties under these or related Laws, or has had funds seized or forfeited in an action under these or related Laws; *provided, however*, that the covenant in this Section 9.04 shall not apply to any Person to the extent such Person's interest is in or through a U.S. Publicly Traded Entity.

**Section 9.05. Estoppel Certificate.** At any time, and from time to time, Lessee shall, promptly and in no event later than ten (10) Business Days after a request from Lessor or any Lender or mortgagee of Lessor, execute, acknowledge and deliver to Lessor or such Lender or mortgagee, as the case may be, a certificate in the form supplied by Lessor, certifying: (a) that Lessee has accepted the Property; (b) that this Lease is in full force and effect and has not been modified (or if modified, setting forth all modifications), or, if this Lease is not in full force and effect, the certificate shall so specify the reasons therefor; (c) the commencement and expiration dates of the Lease Term; (d) the date to which the Rentals have been paid under this Lease and the amount thereof then payable; (e) whether there are then any existing defaults by Lessor in the performance of its obligations under this Lease, and, if there are any such defaults, specifying the nature and extent thereof; (f) that no notice has been received by Lessee of any default under this Lease which has not been cured, except as to defaults specified in the certificate; (g) the capacity of the Person executing such certificate, and that such Person is duly authorized to execute the same on behalf of Lessee; (h) that neither Lessor nor any Lender or mortgagee has actual involvement in the management or control of decision making related to the operational aspects or the day-to-day operation of the Property, including any handling or disposal of Hazardous

Materials or Regulated Substances; and (i) any other information reasonably requested by Lessor or any Lender or mortgagee, as the case may be.

## ARTICLE X

### RELEASE AND INDEMNIFICATION

**Section 10.01. RELEASE AND INDEMNIFICATION.** FOLLOWING THE OCCUPANCY DATE, LESSEE AGREES TO USE AND OCCUPY THE PROPERTY AT ITS OWN RISK AND HEREBY RELEASES LESSOR AND LESSOR'S AGENTS AND EMPLOYEES FROM ALL CLAIMS FOR ANY DAMAGE OR INJURY (SO LONG AS SUCH DID NOT RESULT FROM LESSOR'S OR LESSOR'S AGENTS' OR EMPLOYEES' GROSS NEGLIGENCE OR WILLFUL MISCONDUCT) TO THE FULL EXTENT PERMITTED BY LAW. LESSEE AGREES THAT LESSOR SHALL NOT BE RESPONSIBLE OR LIABLE TO LESSEE OR LESSEE'S EMPLOYEES, AGENTS, CUSTOMERS, LICENSEES OR INVITEES FOR BODILY INJURY, PERSONAL INJURY OR PROPERTY DAMAGE OCCASIONED BY THE ACTS OR OMISSIONS OF ANY OTHER LESSEE OR ANY OTHER PERSON (EXCEPT FOR LESSOR'S AND LESSOR'S AGENTS AND EMPLOYEES GROSS NEGLIGENCE OR WILLFUL MISCONDUCT). LESSEE AGREES THAT ANY EMPLOYEE OR AGENT TO WHOM THE PROPERTY OR ANY PART THEREOF SHALL BE ENTRUSTED BY OR ON BEHALF OF LESSEE SHALL BE ACTING AS LESSEE'S AGENT WITH RESPECT TO THE PROPERTY OR ANY PART THEREOF, AND NEITHER LESSOR NOR LESSOR'S AGENTS, EMPLOYEES OR CONTRACTORS ("LESSOR PARTIES") SHALL BE LIABLE FOR ANY LOSS OF OR DAMAGE TO THE PROPERTY OR ANY PART THEREOF UNLESS SUCH IS CAUSED BY LESSOR PARTIES GROSS NEGLIGENCE OR WILLFUL MISCONDUCT. LESSEE SHALL INDEMNIFY, PROTECT, DEFEND (USING COUNSEL CHOSEN BY LESSEE AND APPROVED BY LESSOR), AND HOLD HARMLESS EACH OF THE INDEMNIFIED PARTIES FROM AND AGAINST ANY AND ALL LOSSES (EXCLUDING LOSSES SUFFERED BY AN INDEMNIFIED PARTY ARISING OUT OF THE GROSS NEGLIGENCE OR WILLFUL MISCONDUCT OF SUCH INDEMNIFIED PARTY) CAUSED BY, INCURRED OR RESULTING FROM LESSEE'S OPERATIONS OR BY LESSEE'S USE AND OCCUPANCY OF THE PROPERTY, WHETHER RELATING TO ITS ORIGINAL DESIGN OR CONSTRUCTION, LATENT DEFECTS, ALTERATION, MAINTENANCE, USE BY LESSEE OR ANY PERSON THEREON, SUPERVISION OR OTHERWISE, OR FROM ANY BREACH OF, DEFAULT UNDER, OR FAILURE TO PERFORM, ANY TERM OR PROVISION OF THIS LEASE BY LESSEE, ITS OFFICERS, EMPLOYEES, AGENTS OR OTHER PERSONS. IT IS EXPRESSLY UNDERSTOOD AND AGREED THAT LESSEE'S OBLIGATIONS UNDER THIS SECTION SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS LEASE FOR ANY REASON WHATSOEVER.

FOR PURPOSES OF THIS LEASE, THE TERM "GROSS NEGLIGENCE" SHALL NOT INCLUDE GROSS NEGLIGENCE IMPUTED AS A MATTER OF LAW TO ANY OF THE INDEMNIFIED PARTIES SOLELY BY REASON OF LESSOR'S INTEREST IN THE PROPERTY OR LESSOR'S FAILURE TO ACT IN RESPECT OF MATTERS WHICH ARE OR WERE THE OBLIGATION OF LESSEE UNDER THIS LEASE.

## ARTICLE XI

### CONDEMNATION AND CASUALTY

**Section 11.01. Notification.** Lessee and Lessor shall promptly give the other party written notice of (a) any Condemnation of the Property, (b) the commencement of any proceedings or negotiations which might result in a Condemnation of the Property, and (c) any Casualty to the Property or any part thereof. Such notice shall provide a general description of the nature and extent of such Condemnation, proceedings, negotiations or Casualty, and shall include copies of any documents or notices received in connection therewith. Thereafter, Lessee shall promptly send Lessor copies of all notices, correspondence and pleadings relating to any such Condemnation, proceedings, negotiations or Casualty.

**Section 11.02. Total Condemnation.** In the event of a Condemnation of all or substantially all of the Property, and if as a result of such Condemnation: (i) access to the Property to and from the publicly dedicated roads adjacent to the Property as of the Effective Date is permanently and materially impaired such that Lessee no longer has access to such dedicated road; (ii) there is insufficient parking to operate the Property as a Permitted Facility under applicable Laws; or (iii) the Condemnation includes a portion of the building such that the remaining portion is unsuitable for use as a Permitted Facility, as determined by Lessee in the exercise of good faith business judgment (and Lessee provides to Lessor an officer's certificate executed by an officer of Lessee certifying to the same) (each such event, a "Total Condemnation"), then, in such event:

(a) **Termination of Lease.** On the date of the Total Condemnation, all obligations of either party hereunder shall cease; *provided, however,* that Lessee's obligations to the Indemnified Parties under any indemnification provisions of this Lease and Lessee's obligation to pay Rental and all other Monetary Obligations (whether payable to Lessor or a third party) accruing under this Lease prior to the date of termination shall survive such termination. If the date of such Total Condemnation is other than the first day of a month, the Base Monthly Rental for the month in which such Total Condemnation occurs shall be apportioned based on the date of the Total Condemnation.

(b) **Net Award.** Subject to Section 11.07 below, Lessor shall be entitled to receive the entire Net Award in connection with a Total Condemnation without deduction for any estate vested in Lessee by this Lease, and Lessee hereby expressly assigns to Lessor all of its right, title and interest in and to every such Net Award and agrees that Lessee shall not be entitled to any Net Award or other payment for the value of Lessee's leasehold interest in this Lease.

**Section 11.03. Partial Condemnation or Casualty.** In the event of a Condemnation which is not a Total Condemnation (each such event, a "Partial Condemnation"), or in the event of a Casualty:

(a) **Net Awards.** Subject to Section 11.07 below, all Net Awards shall be paid to Lessor and, as applicable, made available to Lessee pursuant to Section 11.03(b)(ii) below.

(b) **Continuance of Lease.** This Lease shall continue in full force and effect upon the following terms:

(i) All Rental and other Monetary Obligations due under this Lease shall continue unabated (provided, however, that the parties acknowledge that business interruption insurance proceeds, including Rental Value Insurance proceeds, payable to and received by Lessor shall be applied towards Lessee's Rental obligations).

(ii) If the Partial Condemnation or Casualty occurs prior to the Occupancy Date, Lessor shall promptly commence and diligently prosecute restoration of the Property, and continue to move forward with its obligations under Section 7.03 above, provided, however, that the time periods set forth in Section 7.03 shall be appropriately extended following any Casualty or Partial Condemnation. Lessor shall be entitled to keep any portion of the Net Award which may be in excess of the cost of restoration.

(iii) If the Partial Condemnation or Casualty occurs following the Occupancy Date, Lessee shall promptly commence and diligently prosecute restoration of the Property to the same condition, as nearly as practicable, as prior to the Partial Condemnation or Casualty as approved by Lessor. Subject to the terms and provisions of the Mortgage and upon the written request of Lessee (accompanied by evidence reasonably satisfactory to Lessor that such amount has been paid or is due and payable and is properly part of such costs, and that Lessee has complied with the terms of Section 7.02 in connection with the restoration), Lessor shall promptly make available in installments, subject to reasonable conditions for disbursement imposed by Lessor, an amount up to but not exceeding the amount of any Net Award received by Lessor with respect to such Partial Condemnation or Casualty. Prior to the disbursement of any portion of the Net Award with respect to a Casualty, Lessee shall provide evidence reasonably satisfactory to Lessor of the payment of restoration expenses by Lessee up to the amount of the insurance deductible applicable to such Casualty. Lessor shall be entitled to keep any portion of the Net Award which may be in excess of the cost of restoration, and Lessee shall bear all additional Costs of such restoration in excess of the Net Award.

**Section 11.04. Temporary Taking.** In the event of a Condemnation of all or any part of the Property for a temporary use (a "Temporary Taking"), this Lease shall remain in full force and effect without any reduction of Base Annual Rental, Additional Rental or any other Monetary Obligation payable hereunder. Except as provided below, Lessee shall be entitled to the entire Net Award for a Temporary Taking, unless the period of occupation and use by the condemning authorities shall extend beyond the date of expiration of this Lease, in which event the Net Award made for such Temporary Taking shall be apportioned between Lessor and Lessee as of the date of such expiration. At the termination of any such Temporary Taking, Lessee will, at its own cost and expense and pursuant to the provisions of Section 7.02, promptly commence and complete restoration of the Property.

**Section 11.05. Adjustment of Losses.** Any loss under any property damage insurance required to be maintained by Lessee shall be adjusted by Lessor and Lessee. Any Net Award relating to a Total Condemnation or a Partial Condemnation shall be adjusted by Lessor or, at Lessor's election, Lessee. Notwithstanding the foregoing or any other provisions of this Section 11.05 to the contrary, if at the time of any Condemnation or any Casualty or at any time thereafter an Event of Default shall have occurred and be continuing, Lessor is hereby authorized and

empowered but shall not be obligated, in the name and on behalf of Lessee and otherwise, to file and prosecute Lessee's claim, if any, for a Net Award on account of such Condemnation or such Casualty and to collect such Net Award and apply the same to the curing of such Event of Default and any other then existing Event of Default under this Lease and/or to the payment of any amounts owed by Lessee to Lessor under this Lease, in such order, priority and proportions as Lessor in its discretion shall deem proper.

**Section 11.06. Lessee Obligation in Event of Casualty.** Following the Occupancy Date and during all periods of time following a Casualty, Lessee shall take reasonable steps to ensure that the Property is secure and does not pose any risk of harm to any adjoining property and Persons (including owners or occupants of such adjoining property).

**Section 11.07. Lessee Awards and Payments.** Notwithstanding any provision contained in this Article XI, Lessee shall be entitled to claim and receive any award or payment from the condemning authority expressly granted for the taking of any personal property owned by Lessee (including the Personalty), any insurance proceeds with respect to any personal property owned by Lessee (including the Personalty), the interruption of its business and moving expenses (subject, however, to the provisions of Section 6.03(a)(iv) above), but only if such claim or award does not adversely affect or interfere with the prosecution of Lessor's claim for the Condemnation or Casualty, or otherwise reduce the amount recoverable by Lessor for the Condemnation or Casualty.

## ARTICLE XII

### DEFAULT, CONDITIONAL LIMITATIONS, REMEDIES AND MEASURE OF DAMAGES

**Section 12.01. Event of Default.** Each of the following shall be an event of default by Lessee under this Lease (each, an "Event of Default"):

(a) if any representation or warranty of Lessee set forth in this Lease is false in any material respect when made, or if Lessee renders any materially false statement or account when made and such breach is not remedied within thirty (30) days of written notice thereof;

(b) if any Rental or other Monetary Obligation due under this Lease is not paid within three (3) Business Days after written notice of failure to pay the same; provided, however, that Lessor shall only be obligated to provide such written notice and the three (3) Business Day cure period shall only be available once in any twelve (12) month period; provided, further, that any delay in the payment of Rental as a result of a technical error in the wiring and/or automated clearinghouse process shall not constitute an Event of Default hereunder so long as the same is corrected within one (1) Business Day of the date Lessee receives notice thereof;

(c) if Lessee fails to pay, prior to delinquency, any taxes, assessments or other charges the failure of which to pay will result in the imposition of a lien against the Property;

(d) if, following the Occupancy Date and subject to Lessee's rights under Section 8.01(b), Lessee vacates or abandons the Property;

(e) if there is an Insolvency Event affecting Lessee or the Guarantor;

(f) if Lessee fails to observe or perform any of the other covenants, conditions or obligations of Lessee in this Lease; *provided, however*, if any such failure does not involve the payment of any Monetary Obligation, is not willful or intentional, does not place the Property or any rights or property of Lessor in immediate jeopardy, and is within the reasonable power of Lessee to promptly cure, all as determined by Lessor in its reasonable discretion, then such failure shall not constitute an Event of Default hereunder, unless otherwise expressly provided herein, unless and until Lessor shall have given Lessee written notice thereof and a period of thirty (30) days shall have elapsed, during which period Lessee may correct or cure such failure, upon failure of which an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required. If such failure cannot reasonably be cured within such thirty (30)-day period, as determined by Lessor in its reasonable discretion, and Lessee is diligently pursuing a cure of such failure, then Lessee shall have a reasonable period to cure such failure beyond such thirty (30)-day period, which shall in no event exceed ninety (90) days after receiving notice of such failure from Lessor. If Lessee shall fail to correct or cure such failure within such ninety (90)-day period, an Event of Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required;

(g) if a final, nonappealable judgment is rendered by a court against Lessee which has a Material Adverse Effect, and is not discharged or provision made for such discharge within ninety (90) days from the date of entry thereof;

(h) if Lessee shall be liquidated or dissolved or shall begin proceedings towards its liquidation or dissolution;

(i) if the estate or interest of Lessee in the Property shall be levied upon or attached in any proceeding and such estate or interest is about to be sold or transferred or such process shall not be vacated or discharged within ninety (90) days after it is made; or

(j) if there is an "Event of Default" or other breach or default by Lessee or the Guarantor under any of the other Transaction Documents or any Other Agreement, after the passage of all applicable notice and cure or grace periods; *provided, however*, in the event that this Lease has been the subject of a Securitization and any Other Agreement has not been the subject of the same Securitization or any series relating to such Securitization, an "Event of Default" under such Other Agreement shall not constitute an Event of Default under this Lease.

**Section 12.02. Remedies.** Upon the occurrence of an Event of Default, with or without notice or demand, except as otherwise expressly provided herein or such other notice as may be required by statute and cannot be waived by Lessee, Lessor shall be entitled to exercise, at its option, concurrently, successively, or in any combination, all remedies available at Law or in equity, including, without limitation, any one or more of the following:

(a) to terminate this Lease, whereupon Lessee's right to possession of the Property shall cease and this Lease, except as to Lessee's liability, shall be terminated;

(b) to the extent not prohibited by applicable Law, to (i) re-enter and take possession of the Property (or any part thereof), any or all personal property (subject to any rights of Lessee's Institutional Lenders) or fixtures of Lessee upon the Property and, to the extent permissible, permits and other rights or privileges of Lessee pertaining to the use and operation of the Property, and (ii) expel Lessee and those claiming under or through Lessee, without being deemed guilty in any manner of trespass or becoming liable for any loss or damage resulting therefrom, without resort to legal or judicial process, procedure or action. No notice from Lessor hereunder or under a forcible entry and detainer statute or similar Law shall constitute an election by Lessor to terminate this Lease unless such notice specifically so states. If Lessee shall, after default, voluntarily give up possession of the Property to Lessor, deliver to Lessor or its agents the keys to the Property, or both, such actions shall be deemed to be in compliance with Lessor's rights and the acceptance thereof by Lessor or its agents shall not be deemed to constitute a termination of the Lease. Lessor reserves the right following any re-entry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate;

(c) to bring an action against Lessee for any damages sustained by Lessor or any equitable relief available to Lessor and to the extent not prohibited by applicable Law, to seize all personal property (subject to any rights of Lessee's Institutional Lenders) or fixtures upon the Property which Lessee owns or in which it has an interest, in which Lessor shall have a landlord's lien and/or security interest, and to dispose thereof in accordance with the Laws prevailing at the time and place of such seizure or to remove all or any portion of such property and cause the same to be stored in a public warehouse or elsewhere at Lessee's sole expense, without becoming liable for any loss or damage resulting therefrom and without resorting to legal or judicial process, procedure or action;

(d) to relet the Property or any part thereof for such term or terms (including a term which extends beyond the original Lease Term, provided that the portion of such term that extends beyond the original Lease Term (or then applicable Extension Term) shall be governed by a direct lease agreement between Lessor and new lessee, with no obligations from Lessee)), at such rentals and upon such other terms as Lessor, in its reasonable discretion, may determine, with all proceeds received from such reletting being applied to the Rental and other Monetary Obligations due from Lessee in such order as Lessor may, in its reasonable discretion, determine, which other Monetary Obligations include, without limitation, all repossession costs, brokerage commissions, reasonable attorneys' fees and expenses, alteration, remodeling and repair costs and expenses of preparing for such reletting. Except to the extent required by applicable Law, Lessor shall have no obligation to relet the Property or any part thereof and shall in no event be liable for refusal or failure to relet the Property or any part thereof, or, in the event of any such reletting, for reasonable refusal or failure to collect any rent due upon such reletting, and no such

refusal or failure shall operate to relieve Lessee of any liability under this Lease or otherwise to affect any such liability. Lessor reserves the right following any re-entry and/or reletting to exercise its right to terminate this Lease by giving Lessee written notice thereof, in which event this Lease will terminate as specified in said notice;

(e) except to the extent prohibited by applicable Law to accelerate and recover from Lessee all Rental and other Monetary Obligations due and owing and scheduled to become due and owing under this Lease both before and after the date of such breach for the entire original scheduled Lease Term;

(f) to recover from Lessee all Costs paid or incurred by Lessor as a result of such breach, regardless of whether or not legal proceedings are actually commenced;

(g) to immediately or at any time thereafter, and with or without notice, at Lessor's sole option but without any obligation to do so, correct such breach or default and charge Lessee all Costs incurred by Lessor therein. Any sum or sums so paid by Lessor, together with interest at the Default Rate, shall be deemed to be Additional Rental hereunder and shall be promptly due from Lessee to Lessor upon delivery of an invoice from Lessor to Lessee. Any such acts by Lessor in correcting Lessee's breaches or defaults hereunder shall not be deemed to cure said breaches or defaults or constitute any waiver of Lessor's right to exercise any or all remedies set forth herein;

(h) to immediately or at any time thereafter, and with or without notice, except as required herein, set off any money of Lessee held by Lessor under this Lease or any other Transaction Document or any Other Agreement against any sum owing by Lessee hereunder;

(i) to use the Security Deposit as described in Section 4.09 hereof;

(j) without limiting the generality of the foregoing or limiting in any way the rights of Lessor under this Lease or otherwise under applicable Laws, at any time after the occurrence, and during the continuance, of an Event of Default, Lessor shall be entitled to apply for and have a receiver appointed under applicable Law by a court of competent jurisdiction (by ex parte motion for appointment without notice) in any action taken by Lessor to enforce its rights and remedies hereunder in order to protect and preserve Lessor's interest under this Lease or in the Property and the Personalty (subject to any rights of Lessee's Institutional Lenders), and in connection therewith, Lessee shall reasonably cooperate with Lessor; and/or

(k) to seek any equitable relief available to Lessor, including, without limitation, the right of specific performance.

**Section 12.03. Cumulative Remedies.** All powers and remedies given by Section 12.02 to Lessor, subject to applicable Law, shall be cumulative and not exclusive of one another or of any other right or remedy or of any other powers and remedies available to Lessor under this Lease, by judicial proceedings or otherwise, to enforce the performance or observance of the covenants and agreements of Lessee contained in this Lease, and no delay or omission of Lessor to exercise any right or power accruing upon the occurrence of any Event of Default shall impair any other or subsequent Event of Default or impair any rights or remedies consequent thereto. Every power and remedy given by this Section or by Law to Lessor may be exercised from time

to time, and as often as may be deemed expedient, by Lessor, subject at all times to Lessor's right in its sole judgment to discontinue any work commenced by Lessor or change any course of action undertaken by Lessor.

## ARTICLE XIII

### MORTGAGE, SUBORDINATION AND ATTORNMENT

**Section 13.01. No Liens.** Lessor's interest in this Lease and/or the Property shall not be subordinate to any liens or encumbrances placed upon the Property by or resulting from any act of Lessee, and nothing herein contained shall be construed to require such subordination by Lessor. NOTICE IS HEREBY GIVEN THAT LESSEE IS NOT AUTHORIZED TO PLACE OR ALLOW TO BE PLACED ANY LIEN, MORTGAGE, DEED OF TRUST, DEED TO SECURE DEBT, SECURITY INTEREST OR ENCUMBRANCE OF ANY KIND UPON ALL OR ANY PART OF THE PROPERTY OR LESSEE'S LEASEHOLD INTEREST THEREIN, AND ANY SUCH PURPORTED TRANSACTION SHALL BE VOID.

**Section 13.02. Subordination.** This Lease at all times shall automatically be subordinate to the lien of any and all ground leases and Mortgages now or hereafter placed upon the Property by Lessor, and Lessee covenants and agrees to execute and deliver, upon demand, such further instruments subordinating this Lease to the lien of any or all such ground leases and Mortgages as shall be desired by Lessor, or any present or proposed mortgagees under trust deeds, upon the condition that Lessee shall have the right to remain in possession of the Property under the terms of this Lease, notwithstanding any default in any or all such ground leases or Mortgages, or after the foreclosure of such Mortgages, so long as no Event of Default shall have occurred and be continuing.

**Section 13.03. Attornment.** In the event any purchaser or assignee of any Lender at a foreclosure sale acquires title to the Property, or in the event that any Lender or any purchaser or assignee otherwise succeeds to the rights of Lessor as landlord under this Lease, Lessee shall attorn to Lender or such purchaser or assignee, as the case may be (a "Successor Lessor"), and recognize the Successor Lessor as lessor under this Lease, and, subject to the provisions of this Article XIII, this Lease shall continue in full force and effect as a direct lease between the Successor Lessor and Lessee, provided that the Successor Lessor shall only be liable for any obligations of Lessor under this Lease which accrue after the date that such Successor Lessor acquires title. The foregoing provision shall be self-operative and effective without the execution of any further instruments.

**Section 13.04. Execution of Additional Documents.** Although the provisions in this Article XIII shall be self-operative and no future instrument of subordination shall be required, upon request by Lessor, Lessee shall execute and deliver such additional reasonable instruments as may be reasonably required for such purposes.

**Section 13.05. Notice to Lender.** Lessee shall give written notice to any Lender having a recorded lien upon the Property or any part thereof of which Lessee has been notified of any breach or default by Lessor of any of its obligations under this Lease and give such Lender at least sixty (60) days beyond any notice period to which Lessor might be entitled to cure such default before Lessee may exercise any remedy with respect thereto.

## ARTICLE XIV

### ASSIGNMENT

**Section 14.01. Assignment by Lessor.** As a material inducement to Lessor's willingness to enter into the transactions contemplated by this Lease (the "Transaction") and the other Transaction Documents, Lessee hereby agrees that Lessor may, from time to time and at any time and without the consent of Lessee but subject to Lessee's rights under Article XVIII, engage in all or any combination of the following, or enter into agreements in connection with any of the following or in accordance with requirements that may be imposed by applicable securities, tax or other Laws: (a) the sale, assignment, grant, conveyance, transfer, financing, re-financing, purchase or re-acquisition of the Property, this Lease or any other Transaction Document, Lessor's right, title and interest in this Lease or any other Transaction Document, the servicing rights with respect to any of the foregoing, or participations in any of the foregoing; or (b) a Securitization and related transactions. Without in any way limiting the foregoing, the parties acknowledge and agree that Lessor, in its sole discretion, may assign this Lease or any interest herein to another Person in order to maintain Lessor's or any of its Affiliates' status as a REIT. In the event of any such sale or assignment other than a security assignment, Lessee shall attorn to such purchaser or assignee (so long as Lessor and such purchaser or assignee notify Lessee in writing of such transfer and such purchaser or assignee expressly assumes in writing the obligations of Lessor hereunder from and after the date of such assignment). At the request of Lessor, Lessee will execute such documents confirming the sale, assignment or other transfer and such other agreements as Lessor may reasonably request, provided that the same do not increase the liabilities and obligations of Lessee hereunder. Lessor shall be relieved, from and after the date of such transfer or conveyance, of liability for the performance of any obligation of Lessor contained herein, except for obligations or liabilities accrued prior to such assignment or sale.

#### **Section 14.02. Assignment by Lessee.**

(a) Lessee acknowledges that Lessor has relied both on the business experience and creditworthiness of Lessee and upon the particular purposes for which Lessee intends to use the Property in entering into this Lease. Lessee shall not assign, transfer, convey, pledge or mortgage this Lease or any interest herein or any interest in Lessee, whether by operation of Law or otherwise, without the prior written consent of Lessor. At the time of any assignment of this Lease which is approved by Lessor, the assignee shall assume all of the obligations of Lessee under this Lease pursuant to a written assumption agreement in form and substance reasonably acceptable to Lessor. Such assignment of this Lease pursuant to this Section 14.02 shall not relieve Lessee of its obligations respecting this Lease unless otherwise agreed to by Lessor. Any assignment, transfer, conveyance, pledge or mortgage in violation of this Section 14.02 shall be voidable at the sole option of Lessor. Any consent to an assignment given by Lessor hereunder shall not be deemed a consent to any subsequent assignment.

(b) Notwithstanding anything to the contrary contained in this Section 14.02 and provided that no Event of Default has occurred and is continuing at the time of the proposed assignment or other transfer, and provided further that any assignee agrees to assume all of Lessee's obligations under this Lease, Lessee shall have the right to assign or otherwise transfer all, but not less than all, of its interest in, to and under this Lease without Lessor's consent to (i) any entity which purchases or otherwise acquires all or substantially all of the assets of Lessee in a bona fide sale for fair market value, or (ii) a Qualified Operator (each, a "Permitted Transfer"). A "Qualified Operator" shall mean a Person who (x) for two (2) consecutive years immediately prior to the date of assignment or transfer and (y) on a proforma basis following the consummation of such assignment or transfer (all as determined by Lessor upon review of financial statements provided by the assignee prior to the proposed lease assignment and in a form reasonably satisfactory to Lessor), (A) has a CFCCR (defined below) of at least 1.50x; (B) generates EBITDA (defined below) of at least \$60,000,000, and (C) has a Lease Adjusted Leverage (defined below) of no more than 6.50x; provided, however, that Lessee may satisfy the foregoing conditions of a Qualified Operator by providing, or causing to be provided, a guaranty agreement, in form and substance reasonably acceptable to and approved by Lessor, in writing, which guaranty shall be from an entity that meets the requirements of (A), (B) and (C) set forth in this Section 14.02. In the event that Lessee effects a Permitted Transfer pursuant to clause (ii), Lessee shall be released from any liability arising under this Lease from and after the date of such assignment and Guarantor shall be released from any liability arising under the Guaranty from and after the date of such assignment. In the event that Lessee effects a Permitted Transfer pursuant to clause (i), Lessee shall not be released from liability under this Lease nor shall Guarantor be released from liability under the Guaranty.

For purposes hereof:

"CFCCR" means with respect to the twelve month period of time immediately preceding the date of determination, the ratio calculated for such period of time, each as determined in accordance with GAAP, of (i) the sum of Consolidated Net Income (excluding non-cash income), Depreciation and Amortization, Interest Expense, income taxes, Operating Lease Expense and non-cash expenses to (ii) the sum of Operating Lease Expense (excluding non-cash rent adjustments), scheduled principal payments of long term Debt, scheduled maturities of all Capital Leases, dividends and Interest Expense (excluding non-cash interest expense and amortization of non-cash financing expenses). For purposes of calculating the CFCCR, the following terms shall be defined as set forth below:

"Capital Lease" shall mean all leases of any property, whether real, personal or mixed, by a Person, which leases would, in conformity with GAAP, be required to be accounted for as a capital lease on the balance sheet of such Person. The term "Capital Lease" shall not include any operating lease.

"Consolidated Net Income" shall mean with respect to the period of determination, the net income or net loss of a Person. In determining the amount of Consolidated Net Income, (i) adjustments shall be made for nonrecurring gains and losses or non-cash items allocable to the period of determination, (ii) deductions shall be made for, among other things, Depreciation and Amortization, Interest Expense, Operating Lease Expense, and (iii) no deductions shall be made for income taxes

or charges equivalent to income taxes allocable to the period of determination, as determined in accordance with GAAP.

“Debt” shall mean with respect to a Person, and for the period of determination (i) indebtedness for borrowed money, (ii) subject to the limitation set forth in sub item (iv) below, obligations evidenced by bonds, indentures, notes or similar instruments, (iii) obligations under leases which should be, in accordance with GAAP, recorded as Capital Leases, and (iv) obligations under direct or indirect guarantees in respect of, and obligations (contingent or otherwise) to purchase or otherwise acquire, or otherwise to assure a creditor against loss in respect of, indebtedness or obligations of others of the kinds referred to in clauses (i) through (iv) above, except for guaranty obligations of such Person, which, in conformity with GAAP, are not included on the balance sheet of such Person.

“Depreciation and Amortization” shall mean the depreciation and amortization accruing during any period of determination with respect to a Person, as determined in accordance with GAAP.

“Interest Expense” shall mean for any period of determination, the sum of all interest accrued or which should be accrued in respect of all Debt of a Person, as determined in accordance with GAAP.

“Operating Lease Expense” shall mean the sum of all payments and expenses incurred by a Person, under any operating leases during the period of determination, as determined in accordance with GAAP.

“EBITDA” means for the twelve (12) month period ending on the date of determination, the sum of a Person's net income (loss) for such period plus, in each case to the extent previously deducted in calculating net income (loss): (A) income taxes, (B) interest payments on all of its debt obligations (including any borrowings under short term credit facilities), (C) all non-cash charges including depreciation and amortization, and (D) Non-Recurring Items (defined below).

“EBITDAR” means the sum of a Person's EBITDA and its total land and building rent for the twelve (12) month period ending on the date of determination.

“Lease Adjusted Leverage” means with respect to a Person, as of any applicable date, the sum of (A) ten (10) times such Person's total land and building rent for the twelve (12) month period ending on the date of determination, and (B) the total current balance of such Person's total debt obligations (including any borrowings under short term credit facilities) on such date, divided by EBITDAR.

“Non-Recurring Items” shall mean with respect to a Person, items of the sum (whether positive or negative) of revenue minus expenses that, in the judgment of Lessor, are unusual in nature, occur infrequently and are not representative of the ongoing or future earnings or expenses of such Person.

**Section 14.03. No Subletting.** Lessee shall not sublet any or all of the Property without the prior written consent of Lessor, which may be withheld by Lessor in its sole discretion and any such purported subletting shall be void.

## ARTICLE XV

### NOTICES

**Section 15.01. Notices.** All notices, demands, designations, certificates, requests, offers, consents, approvals, appointments and other instruments given pursuant to this Lease shall be in writing and given by any one of the following: (a) hand delivery; (b) express overnight delivery service; (c) certified or registered mail, return receipt requested; or (d) email transmission, and shall be deemed to have been delivered upon (i) receipt, if hand delivered; (ii) the next Business Day, if delivered by a reputable express overnight delivery service; (iii) the third Business Day following the day of deposit of such notice with the United States Postal Service, if sent by certified or registered mail, return receipt requested; or (iv) transmission, if delivered by email transmission. Notices shall be provided to the parties and addresses (or electronic mail addresses) specified below:

If to Lessee:	Real Time Logic, Inc. 12515 Academy Ridge View Colorado Springs, CO 80921 Attention: Director of Operations Email: shamilton@rtlogic.com
With a copy to:	Kratos Defense & Security Solutions, Inc. 4820 Eastgate Mall, Suite 200 San Diego, CA 92121 Attention: General Counsel Email: marie.mendoza@kratosdefense.com
If to Lessor:	STORE Capital Acquisitions, LLC 8377 E. Hartford Drive, Suite 100 Scottsdale, AZ 85255 Attention: Michael T. Bennett Executive Vice President – General Counsel Email: mbennett@storecapital.com
With a copy to:	Kutak Rock LLP 1801 California Street, Suite 3000 Denver, CO 80202 Attention: Kristine Poston, Esq. Email: kristine.poston@kutakrock.com
And, prior to the Rent Commencement Date, with a copy to:	ViaWest Properties, LLC 2390 E. Camelback Rd., Suite 305 Phoenix, AZ 85016 Attention: Steven R. Schwarz Founding Partner Email: ssschwarz@viawestgroup.com

or to such other address or such other person as either party may from time to time hereafter specify to the other party in a notice delivered in the manner provided above.

## ARTICLE XVI

### LANDLORD'S LIEN / SECURITY INTEREST

**Section 16.01. Landlord's Lien and Security Interest.** Lessee agrees that Lessor shall have a landlord's lien, in, on and against all of Lessee's right, title and interest in, to and under all Personalty, which lien and security interest shall secure the payment of all Rental and other Monetary Obligations payable by Lessee to Lessor under the terms hereof and all other obligations of Lessee to Lessor under this Lease. Lessee agrees that Lessor may file such documents as Lessor then deems appropriate or necessary to perfect and maintain said lien and security interest, and expressly acknowledges and agrees that, in addition to any and all other rights and remedies of Lessor whether hereunder or at Law or in equity, in the Event of Default of Lessee hereunder, Lessor shall have any and all rights and remedies granted a secured party under the Uniform Commercial Code then in effect in the state where the Property is located. Lessee covenants to promptly notify Lessor of any changes in Lessee's name and/or organizational structure which may necessitate the execution and filing of additional financing statements; *provided, however,* the foregoing shall not be construed as Lessor's consent to such changes.

**Section 16.02. Landlord Subordination.** Notwithstanding anything contain in Section 16.01 to the contrary, Lessee shall have the right from time to time during the Lease Term and without Lessor's further approval, written or otherwise, to grant a security interest in Lessee's property (including the Personalty) to Lessee's and/or Guarantor's institutional lenders ("Lessee's Institutional Lenders") in connection with Lessee's and Guarantor's financing arrangements. Lessor agrees to execute such subordinations and other related documents related to the Lessor subordination described herein (except amendments to this Lease unless Lessor hereafter consents) as Lessee's Institutional Lender may reasonably request and in a form acceptable to Lessor in connection with any such financing.

## ARTICLE XVII

### MISCELLANEOUS

**Section 17.01. Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, acts of God, enemy or hostile governmental action, civil commotion, fire or other casualty beyond the control of the party obligated to perform (each, a "Force Majeure Event") shall excuse the performance by such party for a period equal to any such prevention, delay or stoppage, expressly excluding, however, the obligations imposed upon Lessee with respect to Rental and other Monetary Obligations to be paid hereunder.

**Section 17.02. No Merger.** There shall be no merger of this Lease nor of the leasehold estate created by this Lease with the fee estate in or ownership of the Property by reason of the fact that the same person, corporation, firm or other entity may acquire or hold or own, directly or indirectly, (a) this Lease or the leasehold estate created by this Lease or any interest in this Lease or in such leasehold estate, and (b) the fee estate or ownership of the Property or any

interest in such fee estate or ownership. No such merger shall occur unless and until all persons, corporations, firms and other entities having any interest in (i) this Lease or the leasehold estate created by this Lease, and (ii) the fee estate in or ownership of the Property or any part thereof sought to be merged shall join in a written instrument effecting such merger and shall duly record the same.

**Section 17.03. Interpretation.** Lessor and Lessee acknowledge and warrant to each other that each has been represented by independent counsel and has executed this Lease after being fully advised by said counsel as to its effect and significance. This Lease shall be interpreted and construed in a fair and impartial manner without regard to such factors as the party which prepared the instrument, the relative bargaining powers of the parties or the domicile of any party. Whenever in this Lease any words of obligation or duty are used, such words or expressions shall have the same force and effect as though made in the form of a covenant.

**Section 17.04. Characterization.** The following expressions of intent, representations, warranties, covenants, agreements, stipulations and waivers are a material inducement to Lessor entering into this Lease:

(a) Lessor and Lessee intend that (i) this Lease is a "true lease," is not a financing lease, capital lease, mortgage, equitable mortgage, deed of trust, trust agreement, security agreement or other financing or trust arrangement, and the economic realities of this Lease are those of a true lease; and (ii) the business relationship created by this Lease and any related documents is solely that of a long-term commercial lease between Lessor and Lessee, the Lease has been entered into by both parties in reliance upon the economic and legal bargains contained herein, and none of the agreements contained herein is intended, nor shall the same be deemed or construed, to create a partnership (*de facto* or *de jure*) between Lessor and Lessee, to make them joint venturers, to make Lessee an agent, legal representative, partner, subsidiary or employee of Lessor, nor to make Lessor in any way responsible for the debts, obligations or losses of Lessee.

(b) Lessor and Lessee covenant and agree that: (i) each intends to treat this Lease as an operating lease pursuant to Accounting Standards Codification 840 or 842 Leases, as may be amended from time to time, and as a true lease for state Law reporting purposes and for federal income tax purposes; (ii) each party will not, nor will it permit any Affiliate to, at any time, take any action or fail to take any action with respect to the preparation or filing of any statement or disclosure to Governmental Authority, including without limitation, any income tax return (including an amended income tax return), to the extent that such action or such failure to take action would be inconsistent with the intention of the parties expressed in this Section 17.04; (iii) with respect to the Property, the Lease Term is less than seventy-five percent (75%) of the estimated remaining economic life of the Property; and (iv) the Base Annual Rental is the fair market value for the use of the Property and was agreed to by Lessor and Lessee on that basis, and the execution and delivery of, and the performance by Lessee of its obligations under, this Lease do not constitute a transfer of all or any part of the Property.

(c) Lessee waives any claim or defense based upon the characterization of this Lease as anything other than a true lease of the Property. Lessee stipulates and agrees (i) not to challenge the validity, enforceability or characterization of the lease of the Property as a true lease of the Property; and (ii) not to assert or take or omit to take any action inconsistent with the agreements and understandings set forth in this Section 17.04.

**Section 17.05. Disclosures.**

(a) **Securities Act or Exchange Act.** The parties agree that, notwithstanding any provision contained in this Lease, any party (and each employee, representative or other agent of any party) may disclose to any and all persons, without limitation of any kind, any matter required under the Securities Act or the Exchange Act.

(b) **Lessor Advertising and Related Publications.** Each party shall obtain the other party's prior written consent before such other party's name, trademarks, logos, pictures of stores and signage, and basic Transaction information (collectively "Company Information") is used in connection with any sales, advertising, and press release materials, including on the requesting party's website. .

(c) **Public Disclosures.** Except as required by Law, neither party shall make any public disclosure, including press releases or any form of media release, of this Lease Agreement or any transactions relating hereto without the prior written consent of the other.

**Section 17.06. Attorneys' Fees.** In the event of any judicial or other adversarial proceeding concerning this Lease, to the extent permitted by Law, the prevailing party shall be entitled to recover all of its reasonable attorneys' fees and other Costs in addition to any other relief to which it may be entitled.

**Section 17.07. Memorandum of Lease.** Concurrently with the execution of this Lease, Lessor and Lessee are executing Lessor's standard form memorandum of lease in recordable form, indicating the names and addresses of Lessor and Lessee, a description of the Property, the Lease Term, but omitting Rentals and such other terms of this Lease as Lessor may not desire to disclose to the public. Further, upon Lessor's reasonable request, Lessee agrees to execute and acknowledge a termination of lease and/or quitclaim deed in recordable form to be held by Lessor until the expiration or sooner termination of the Lease Term.

**Section 17.08. No Brokerage.** Lessor and Lessee represent and warrant to each other that they have had no conversation or negotiations with any broker, other than Olive Real Estate Group (whose fees will be paid in accordance with the terms of the Disbursement Agreement) concerning the leasing of the Property. Each of Lessor and Lessee agrees to protect, defend (using counsel chosen by Lessee and approved by Lessor), indemnify, save and keep harmless the other, against and from all liabilities, claims, losses, Costs, damages and expenses, including reasonable attorneys' fees, arising out of, resulting from or in connection with their breach of the foregoing warranty and representation.

**Section 17.09. Waiver of Jury Trial and Certain Damages.** LESSOR AND LESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO A TRIAL BY JURY WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT BY EITHER OF THE PARTIES HERETO AGAINST THE OTHER OR ITS SUCCESSORS WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE, THE RELATIONSHIP OF LESSOR AND LESSEE, LESSEE'S USE OR OCCUPANCY OF THE PROPERTY, AND/OR ANY CLAIM FOR INJURY OR DAMAGE, OR ANY EMERGENCY OR STATUTORY REMEDY. THIS WAIVER BY THE PARTIES HERETO OF ANY RIGHT EITHER MAY HAVE TO A TRIAL BY JURY HAS BEEN NEGOTIATED AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN. FURTHERMORE, LESSOR AND LESSEE HEREBY KNOWINGLY, VOLUNTARILY AND INTENTIONALLY WAIVE THE RIGHT EITHER MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES FROM THE OTHER PARTY AND ANY OF THE AFFILIATES, OFFICERS, DIRECTORS, MEMBERS, MANAGERS OR EMPLOYEES OF LESSOR OR LESSEE, AS APPLICABLE, OR ANY OF THEIR SUCCESSORS WITH RESPECT TO ANY AND ALL ISSUES PRESENTED IN ANY ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM BROUGHT WITH RESPECT TO ANY MATTER ARISING OUT OF OR IN CONNECTION WITH THIS LEASE OR ANY DOCUMENT CONTEMPLATED HEREIN OR RELATED HERETO. THE WAIVER BY LESSOR AND LESSEE OF ANY RIGHT EITHER MAY HAVE TO SEEK PUNITIVE, CONSEQUENTIAL, SPECIAL AND INDIRECT DAMAGES HAS BEEN NEGOTIATED BY THE PARTIES HERETO AND IS AN ESSENTIAL ASPECT OF THEIR BARGAIN.

**Section 17.10. Securitizations.** As a material inducement to Lessor's willingness to enter into the Transactions contemplated by this Lease and the other Transaction Documents, Lessee hereby acknowledges and agrees that Lessor may, from time to time and at any time (a) advertise, issue press releases, send direct mail or otherwise disclose information regarding the Transaction for marketing purposes with Lessee's prior written consent; and (b) (i) act or permit another Person to act as sponsor, settler, transferor or depositor of, or a holder of interests in, one or more Persons or other arrangements formed pursuant to a trust agreement, indenture, pooling agreement, participation agreement, sale and servicing agreement, limited liability company agreement, partnership agreement, articles of incorporation or similar agreement or document; and (ii) permit one or more of such Persons or arrangements to offer and sell stock, certificates, bonds, notes, other evidences of indebtedness or securities that are directly or indirectly secured, collateralized or otherwise backed by or represent a direct or indirect interest in whole or in part in any of the assets, rights or properties described in Section 14.01 of this Lease, in one or more Persons or arrangements holding such assets, rights or properties, or any of them (collectively, the "Securities"), whether any such Securities are privately or publicly offered and sold, or rated

or unrated (any combination of which actions and transactions described in both clauses (i) and (ii) in this paragraph, whether proposed or completed, are referred to in this Lease as a "Securitization"). Lessee shall cooperate fully with Lessor and any Affected Party with respect to all reasonable requests and due diligence procedures and use reasonable efforts to facilitate such Securitization, provided that such cooperation shall be at no additional cost or expense to Lessee so long as Lessee is not otherwise required to provide such information to Lessor pursuant to the other provisions of this Lease.

**Section 17.11. State-Specific Provisions.** The provisions and/or remedies which are set forth on the attached Exhibit D shall be deemed a part of and included within the terms and conditions of this Lease.

**Section 17.12. Time is of the Essence; Computation.** Time is of the essence with respect to each and every provision of this Lease. If any deadline provided herein falls on a non-Business Day, such deadline shall be extended to the next day that is a Business Day.

**Section 17.13. Waiver and Amendment.** No provision of this Lease shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion. No acceptance by Lessor of an amount less than the Rental and other Monetary Obligations stipulated to be due under this Lease shall be deemed to be other than a payment on account of the earliest such Rental or other Monetary Obligations then due or in arrears nor shall any endorsement or statement on any check or letter accompanying any such payment be deemed a waiver of Lessor's right to collect any unpaid amounts or an accord and satisfaction.

**Section 17.14. Successors Bound.** Except as otherwise specifically provided herein, the terms, covenants and conditions contained in this Lease shall bind and inure to the benefit of the respective heirs, successors, executors, administrators and assigns of each of the parties hereto.

**Section 17.15. Captions.** Captions are used throughout this Lease for convenience of reference only and shall not be considered in any manner in the construction or interpretation hereof.

**Section 17.16. Other Documents.** Each of the parties agrees to sign such other and further documents as may be reasonably necessary or appropriate to carry out the intentions expressed in this Lease.

**Section 17.17. Entire Agreement.** This Lease and any other instruments or agreements referred to herein, constitute the entire agreement between the parties with respect to the subject matter hereof, and there are no other representations, warranties or agreements except as herein provided.

**Section 17.18. Forum Selection; Jurisdiction; Venue; Choice of Law.** For purposes of any action or proceeding arising out of this Lease, the parties hereto expressly submit to the jurisdiction of all federal and state courts located in the state where the Property is located. Lessee and Lessor each consents that it may be served with any process or paper by registered mail or by personal service within or without the state where the Property is located in accordance with applicable Law. Furthermore, Lessee waives and agrees not to assert in any such action, suit or proceeding that it is not personally subject to the jurisdiction of such courts, that the action, suit or proceeding is brought in an inconvenient forum or that venue of the action, suit or proceeding is improper. This Lease shall be governed by, and construed with, the Laws of the applicable state in which the Property is located, without giving effect to any state's conflict of Laws principles.

**Section 17.19. Counterparts.** This Lease may be executed in one or more counterparts, each of which shall be deemed an original. Furthermore, the undersigned agree that transmission of this Lease via e-mail in a ".pdf" or other electronic format shall be deemed transmission of the original Lease for all purposes.

## ARTICLE XVIII

### RIGHT OF FIRST REFUSAL

**Section 18.01. Offer.** Subject to the terms and conditions set forth in this Section Article XVIII, if Lessor desires to sell the Property and receives a bona fide written offer from a third party which offer is in all respects acceptable to Lessor, Lessor shall deliver a complete copy of such bona fide third party offer to Lessee ("Third Party Offer"). Within twenty-one (21) days of Lessee's receipt of the first Third Party Offer delivered hereunder, and within fifteen (15) days of Lessee's receipt of subsequent Third Party Offer from Lessor, and a written statement of Lessor's desire to sell the Property in accordance with such Third Party Offer, Lessee shall have the right to deliver an offer to Lessor ("Purchase Offer") to purchase Lessor's interest in any such Property for the amount of the bona fide third party offer to purchase the Property (the "Subject Purchase Price"). Lessee shall complete such purchase, subject to the satisfaction of each of the terms and conditions set forth in Section 18.02 below.

#### **Section 18.02. Conditions Precedent.**

(a) The purchase of Lessor's interest in the Property pursuant to Section 18.01 shall be subject to the fulfillment of all of the following terms and conditions: (i) no Event of Default shall have occurred and be continuing under this Lease or other Transaction Documents; (ii) Lessee shall have paid to Lessor the Subject Purchase Price, together with all Rental and other Monetary Obligations then due and payable under this Lease as of the date of the closing of such purchase; (iii) in addition to payment of the Subject Purchase Price, Lessee shall have satisfied its obligations under Section 18.03 below; and (iv) the date of the closing of such purchase shall occur within sixty (60) days of Lessor's receipt of the Purchase Offer.

(b) On the date of the closing of the purchase of a Property pursuant to this Section (the "Purchase Closing Date"), subject to satisfaction of the foregoing conditions: (i) this Lease shall be deemed terminated; *provided, however*, such termination shall not limit Lessee's obligations to Lessor under any indemnification provisions of this Lease and Lessee's obligations to pay any Monetary Obligations (whether payable to Lessor or a third party) accruing under this

Lease with respect to such Property prior to the Purchase Closing Date shall survive the termination of this Lease; and (ii) Lessor shall convey such Property to Lessee "as is" by special warranty deed, subject to all matters of record (except for any consensual liens granted by Lessor other than those granted by Lessor at the request of Lessee), and without representation or warranty.

**Section 18.03. Costs.** Lessee shall be solely responsible for the payment of all Costs, whether or not the purchase is consummated that the third party was willing to be responsible for under the Third Party Offer.

**Section 18.04. Termination of Right.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, LESSEE'S RIGHTS UNDER THIS ARTICLE XVIII SHALL TERMINATE AND BE NULL AND VOID AND OF NO FURTHER FORCE AND EFFECT IF (i) LESSEE FAILS TO EXERCISE THE RIGHT GRANTED PURSUANT TO THIS ARTICLE, AND THE SALE TO THE THIRD PARTY PURCHASER IS CONSUMMATED; (ii) THIS LEASE TERMINATES OR THE LEASE TERM EXPIRES; (iii) THE PROPERTY IS SOLD OR TRANSFERRED PURSUANT TO THE EXERCISE OF A PRIVATE POWER OF SALE OR JUDICIAL FORECLOSURE OR ACCEPTANCE OF A DEED IN LIEU THEREOF; OR (iv) LESSEE SHALL BE IN DEFAULT OF ANY OF THE TERMS AND CONDITIONS OF THIS LEASE OR IF ANY CONDITION SHALL EXIST WHICH UPON THE GIVING OF NOTICE OR THE PASSAGE OF TIME, OR BOTH, WOULD CONSTITUTE A DEFAULT BY LESSEE UNDER THIS LEASE. IN ANY SUCH EVENT, LESSEE SHALL EXECUTE A QUITCLAIM DEED AND SUCH OTHER DOCUMENTS AS LESSOR SHALL REASONABLY REQUEST EVIDENCING THE TERMINATION OF ITS RIGHT UNDER THIS SECTION 18.04.

**Section 18.05. Attornment.** If Lessee does not deliver its Purchase Offer to purchase the Property and the Property is transferred to a third party purchaser, Lessee will attorn to any third party purchaser as Lessor so long as such third party purchaser and Lessor notify Lessee in writing of such transfer and so long as there is no material increase to Lessee's obligations under this Lease. At the request of Lessor, Lessee will execute such documents confirming the agreement referred to above and such other agreements as Lessor may reasonably request, provided that such agreements do not increase the liabilities and obligations of Lessee hereunder.

**Section 18.06. Exclusions.** The provisions of this Article XVIII shall not apply to or prohibit (i) any mortgages or other hypothecation of Lessor's interest in the Property; (ii) any sale of the Property pursuant to a private power of sale under or judicial foreclosure of any mortgage or other security instrument or device to which Lessor's interest in the Property is now or hereafter subject; (iii) any transfer of Lessor's interest in the Property to a mortgagee or other holder of a security interest therein or their designees by deed in lieu of foreclosure; (iv) any transfer of the Property to any governmental or quasi-governmental agency with power of Condemnation; (v) any transfer of the Property to any Affiliate of Lessor; (vi) any transfers of interests in Lessor by any member, shareholder, partner or other owner to any other member, shareholder, partner or other owner; and (vii) any transfers to any Person to whom Lessor sells all or substantially all of its assets.

*[Remainder of page intentionally left blank; signature page(s) to follow]*

IN WITNESS WHEREOF, Lessor and Lessee have entered into this Lease as of the date first above written.

**LESSOR:**

**STORE CAPITAL ACQUISITIONS, LLC,**  
a Delaware limited liability company

By: /s/Michael T. Bennett

Printed Name: Michael T. Bennett

Title: Executive Vice President, General Counsel

4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1

**LESSEE:**

**REAL TIME LOGIC, INC.,**  
a Colorado corporation

By: /s/ Michael W. Fink

Printed Name: Michael W. Fink

Title: Vice President, Contracts

4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1

## EXHIBITS

Exhibit A: Defined Terms

Exhibit B: Legal Description and Street Address of the Property

Exhibit C: Wire Instructions

Exhibit D: State-Specific Provisions

Exhibit E: Construction Commencement Date Certificate

Exhibit F: Occupancy Date Certificate

Schedule 8.01 Prohibited Uses

4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1

## EXHIBIT A

### DEFINED TERMS

The following terms shall have the following meanings for all purposes of this Lease:

“*Additional Rental*” has the meaning set forth in Section 4.03.

“*Adjustment Date*” has the meaning set forth in Section 1.07.

“*Affected Party*” means each direct or indirect participant or investor in a proposed or completed Securitization, including, without limitation, any prospective owner, any rating agency or any party to any agreement executed in connection with the Securitization.

“*Affiliate*” means any Person which directly or indirectly controls, is under common control with or is controlled by any other Person. For purposes of this definition, “controls,” “under common control with,” and “controlled by” means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities or otherwise.

“*Anti-Money Laundering Laws*” means all applicable Laws, regulations and government guidance on the prevention and detection of money laundering, including, without limitation, (a) 18 U.S.C. §§ 1956 and 1957; and (b) the Bank Secrecy Act, 31 U.S.C. §§ 5311 et seq., and its implementing regulations, 31 CFR Part 103.

“*Base Annual Rental*” has the meaning set forth in Section 1.05.

“*Base Monthly Rental*” means an amount equal to 1/12 of the applicable Base Annual Rental.

“*Business Day*” means a day on which banks located in Scottsdale, Arizona are not required or authorized to remain closed.

“*Casualty*” means any loss of or damage to any property included within or related to the Property or arising from an adjoining property caused by an Act of God, fire, flood or other catastrophe.

“*Code*” means the Internal Revenue Code of 1986, as the same may be amended from time to time.

“*Completion Deadline*” has the meaning set forth in Section 7.03(a).

“*Condemnation*” means a Taking and/or a Requisition.

“*Construction Commencement Date*” means the date that (a) Lessor and Lessee have approved the final Budget (as defined in the Disbursement Agreement) in writing, (b) the General Contract (as defined in the Disbursement Agreement), the Architect’s Agreement (as defined in the Disbursement Agreement), all construction plans and specifications and all necessary permits

and approvals required to commence construction of the New Building have been received by Developer and approved in writing by Lessor and Lessee, and (c) Developer has commenced such construction activities. The Construction Commencement Date shall be memorialized in writing via a certificate in form and substance substantially similar to the certificate attached hereto as Exhibit E executed by Developer and delivered to Lessee and Lessor prior to such Construction Commencement Date.

“*Construction Funds*” has the meaning set forth in Section 1.06.

“*Costs*” means all reasonable costs and expenses incurred by a Person, including, without limitation, reasonable attorneys’ fees and expenses, court costs, expert witness fees, costs of tests and analyses, travel and accommodation expenses, deposition and trial transcripts, copies and other similar costs and fees, brokerage fees, escrow fees, title insurance premiums, appraisal fees, stamp taxes, recording fees and transfer taxes or fees, as the circumstances require.

“*Default Rate*” means 18% per annum or the highest rate permitted by Law, whichever is less.

“*Developer*” means VIAWEST PROPERTIES, LLC, an Arizona limited liability company.

“*Disbursement Agreement*” has the meaning set forth in Section 7.03(a).

“*Effective Date*” has the meaning set forth in the introductory paragraph of this Lease.

“*Entire Parcel*” has the meaning set forth in Section 2.03.

“*Environmental Laws*” means federal, state and local Laws, ordinances, common law requirements and regulations and standards, rules, policies and other governmental requirements, administrative rulings and court judgments and decrees having the effect of Law in effect now or in the future and including all amendments, that relate to Hazardous Materials, Regulated Substances, USTs, and/or the protection of human health or the environment, or relating to liability for or Costs of Remediation or prevention of Releases, and apply to Lessee and/or the Property.

“*Environmental Liens*” means any liens and other encumbrances imposed pursuant to any Environmental Law.

“*Event of Default*” has the meaning set forth in Section 12.01.

“*Exchange Act*” means the Securities Exchange Act of 1934, as amended.

“*Existing Building Area*” means the shaded portion of the Entire Parcel depicted on the drawing on Exhibit B attached hereto, all rights, privileges, and appurtenances associated therewith, and all buildings, fixtures and other improvements now or hereafter located in such shaded area of the Entire Parcel (whether or not affixed to such real estate).

“*Existing Building Lease*” means that certain Lease Agreement among Lessor and Lessee dated as of the Effective Date with respect to the Existing Building Area.

"*Expenditure Cap*" has the meaning set forth in Section 7.01(b).

"*Extension Option*" has the meaning set forth in Section 3.02.

"*Extension Term*" has the meaning set forth in Section 3.02.

"*Final Disbursement*" has the meaning set forth in the Disbursement Agreement.

"*First Deposit Return*" has the meaning set forth in Section 4.09(c)(i).

"*Force Majeure Event*" has the meaning set forth in Section 17.01.

"*GAAP*" means generally accepted accounting principles, consistently applied from period to period.

"*Governmental Authority*" means any governmental authority, agency, department, commission, bureau, board, instrumentality, court or quasi-governmental authority of the United States, any state or any political subdivision thereof with authority to adopt, modify, amend, interpret, give effect to or enforce any federal, state and local Laws, statutes, ordinances, rules or regulations, including common law, or to issue court orders.

"*Guarantor*" means Kratos Defense & Security Solutions, Inc., a Delaware corporation, or any additional or replacement guarantor(s) approved by Lessor in its reasonable discretion.

"*Guaranty*" means that certain Unconditional Guaranty of Payment and Performance dated as of the date hereof given by Guarantor for the benefit of Lessor, as the same may be amended from time to time.

"*Hazardous Materials*" includes: (a) oil, petroleum products, flammable substances, explosives, radioactive materials, hazardous wastes or substances, toxic wastes or substances or any other materials, contaminants or pollutants, the presence of which causes the Property to be in violation of any local, state or federal Law or regulation, or Environmental Law, or are defined as or included in the definition of "hazardous substances," "hazardous wastes," "hazardous materials," "toxic substances," "contaminants," "pollutants," or words of similar import under any applicable local, state or federal Law or under the regulations adopted, orders issued, or publications promulgated pursuant thereto, including, but not limited to: (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. § 9601, et seq.; (ii) the Hazardous Materials Transportation Act, as amended, 49 U.S.C. § 5101, et seq.; (iii) the Resource Conservation and Recovery Act, as amended, 42 U.S.C. § 6901, et seq.; and (iv) regulations adopted and publications promulgated pursuant to the aforesaid Laws; (b) asbestos in any form which is friable, urea formaldehyde foam insulation, transformers or other equipment which contain dielectric fluid containing levels of polychlorinated biphenyls in excess of fifty (50) parts per million; (c) underground storage tanks; and (d) any other chemical, material or substance, exposure to which is prohibited, limited or regulated by any Governmental Authority.

"*Indemnified Parties*" means Lessor, its members, managers, officers, directors, shareholders, partners, employees, affiliates, subsidiaries, successors and assigns, including, but

not limited to, any successors by merger, consolidation or acquisition of all or a substantial portion of the assets and business of Lessor.

*"Initial Cure Period"* has the meaning set forth in Section 7.03(b).

*"Initial Term"* has the meaning set forth in Section 3.01.

*"Insolvency Event"* means (a) a Person's making a general assignment for the benefit of creditors; (b) any proceeding being instituted by or against any Person (i) seeking to adjudicate it bankrupt or insolvent; (ii) seeking liquidation, dissolution, winding up, reorganization, arrangement, adjustment, protection, relief, or composition of it or its debts under any Law relating to bankruptcy, insolvency, or reorganization or relief of debtors; or (iii) seeking the entry of an order for relief or the appointment of a receiver, trustee, or other similar official for it or for any substantial part of its property, and in the case of any such proceeding instituted against any Person, either such proceeding shall remain undismissed for a period of one hundred twenty (120) days or any of the actions sought in such proceeding shall occur; or (c) any Person taking any corporate action to authorize any of the actions set forth above in this definition.

*"Insurance Premiums"* has the meaning in Section 6.04.

*"Law(s)"* means any constitution, statute, rule of law, code, ordinance, order, judgment, decree, injunction, rule, regulation, policy, requirement or administrative or judicial determination, even if unforeseen or extraordinary, of every duly constituted Governmental Authority, court or agency, now or hereafter enacted or in effect.

*"Lease Term"* has the meaning described in Section 3.01.

*"Legal Requirements"* means the requirements of all present and future Laws (including, without limitation, Environmental Laws and Laws relating to accessibility to, usability by, and discrimination against, disabled individuals), all judicial and administrative interpretations thereof, including any judicial order, consent, decree or judgment, and all covenants, restrictions and conditions now or hereafter of record which may be applicable to Lessee or to the Property, or to the use, manner of use, occupancy, possession, operation, maintenance, alteration, repair or restoration of the Property, even if compliance therewith necessitates structural changes or improvements or results in interference with the use or enjoyment of the Property.

*"Lender"* means any lender in connection with any loan secured by Lessor's interest in the Property, and any servicer of any loan secured by Lessor's interest in the Property.

*"Lessee Entity"* or *"Lessee Entities"* means individually or collectively, as the context may require, Lessee and Guarantor.

*"Lessee Reporting Entities"* means individually or collectively, as the context may require, Lessee and Guarantor.

*"Lessee's Information"* has the meaning set forth in Section 17.05(b).

*"Lessee's Institutional Lenders"* has the meaning set forth in Section 16.01.

“Lessor Entity” or “Lessor Entities” means individually or collectively, as the context may require, Lessor and all Affiliates of Lessor.

“Lessor Expenditure” has the meaning set forth in Section 7.01(b).

“Losses” means any and all claims, suits, liabilities (including, without limitation, strict liabilities), actions, proceedings, obligations, debts, damages, losses, Costs, diminutions in value, fines, penalties, interest, charges, fees, judgments, awards, amounts paid in settlement and damages of whatever kind or nature, inclusive of bodily injury and property damage to third parties (including, without limitation, attorneys’ fees and other Costs of defense).

“Material Adverse Effect” means a material adverse effect on (a) the Property, including without limitation, the operation of the Property as a Permitted Facility and/or the value of the Property; (b) Lessee’s ability to perform its obligations under this Lease; (c) Lessor’s interests in the Property, this Lease or the other Transaction Documents; or (d) Guarantor’s ability to perform its obligations under the Guaranty.

“Monetary Obligations” means all Rental and all other sums payable or reimbursable by Lessee under this Lease to Lessor, to any third party on behalf of Lessor, or to any Indemnified Party.

“Mortgage” means, collectively, the mortgages, deeds of trust or deeds to secure debt, assignments of rents and leases, security agreements and fixture filings executed by Lessor for the benefit of Lender with respect to the Property, as such instruments may be amended, modified, restated or supplemented from time to time and any and all replacements or substitutions.

“Net Award” means (a) the entire award payable with respect to a Property by reason of a Condemnation whether pursuant to a judgment or by agreement or otherwise; or (b) the entire proceeds of any insurance required under Section 6.03 payable with respect to a Property, as the case may be, and in either case, less any Costs incurred by Lessor in collecting such award or proceeds.

“New Building” means the to-be-constructed improvements to be located on the Property.

“Occupancy Date” means the date that (a) the Developer has substantially completed the New Building, as determined by Developer, (b) all certificates of occupancy and related permits and approvals have been obtained by the Developer, and (c) the Developer has given Lessee at least thirty (30) days’ notice that conditions (a) and (b) herein have been satisfied. Such Occupancy Date shall be memorialized in writing via a certificate in form and substance substantially similar to the certificate attached hereto as Exhibit F executed by Lessee and Lessor prior to such Occupancy Date.

“OFAC Laws” means Executive Order 13224 issued by the President of the United States, and all regulations promulgated thereunder, including, without limitation, the Terrorism Sanctions Regulations (31 CFR Part 595), the Terrorism List Governments Sanctions Regulations (31 CFR Part 596), the Foreign Terrorist Organizations Sanctions Regulations (31 CFR Part 597), and the Cuban Assets Control Regulations (31 CFR Part 515), and all other present and future federal, state and local Laws, ordinances, regulations, policies, lists (including, without limitation, the

Specially Designated Nationals and Blocked Persons List) and any other requirements of any Governmental Authority (including without limitation, the U.S. Department of the Treasury Office of Foreign Assets Control) addressing, relating to, or attempting to eliminate, terrorist acts and acts of war, each as supplemented, amended or modified from time to time after the Effective Date, and the present and future rules, regulations and guidance documents promulgated under any of the foregoing, or under similar Laws, ordinances, regulations, policies or requirements of other states or localities.

“*Other Agreements*” means, collectively, all agreements and instruments now or hereafter entered into between, among or by (a) any of the Lessee Entities; and, or for the benefit of, (b) any of the Lessor Entities, including, without limitation, leases (including the Existing Building Lease), promissory notes and guaranties, but excluding this Lease and all other Transaction Documents.

“*Partial Condemnation*” has the meaning set forth in Section 11.03.

“*Permitted Amounts*” shall mean, with respect to any given level of Hazardous Materials or Regulated Substances, that level or quantity of Hazardous Materials or Regulated Substances in any form or combination of forms which does not constitute a violation of any Environmental Laws and is customarily employed in, or associated with, similar businesses located in the state where the Property is located.

“*Permitted Facility*” means general office purposes, labs, storage and warehousing and any other lawful purpose common to and suitable for modern suburban office buildings in Colorado Springs, CO, except for the “Prohibited Uses” described in Schedule 8.01 attached hereto.

“*Person*” means any individual, partnership, corporation, limited liability company, trust, unincorporated organization, Governmental Authority or any other form of entity.

“*Personalty*” means any and all “goods” (excluding “inventory,” and including, without limitation, all “equipment,” “fixtures,” appliances and furniture (as “goods,” “inventory,” “equipment” and “fixtures” are defined in the applicable Uniform Commercial Code then in effect in the applicable jurisdiction)) from time to time situated on or used in connection with the Property, whether now owned or held or hereafter arising or acquired, together with all replacements and substitutions therefore and all cash and non-cash proceeds (including insurance proceeds and any title and UCC insurance proceeds) and products thereof, and, in the case of tangible collateral, together with all additions, attachments, accessions, parts, equipment and repairs now or hereafter attached or affixed thereto or used in connection therewith.

“*Price Index*” means the Consumer Price Index which is designated for the applicable month of determination as the United States City Average for All Urban Consumers, All Items, Not Seasonally Adjusted, with a base period equaling 100 in 1982 - 1984, as published by the United States Department of Labor’s Bureau of Labor Statistics or any successor agency. In the event that the Price Index ceases to be published, its successor index measuring cost of living as published by the same Governmental Authority which published the Price Index shall be substituted and any necessary reasonable adjustments shall be made by Lessor and Lessee in order to carry out the intent of Section 4.02. In the event there is no successor index measuring cost of living, Lessor shall reasonably select an alternative price index measuring cost of living that will constitute a reasonable substitute for the Price Index.

“*Property*” means the unshaded portion of the Entire Parcel depicted on the drawing on Exhibit B attached hereto, all rights, privileges, and appurtenances associated therewith, and all buildings, fixtures and other improvements now or hereafter located in such unshaded area of the Entire Parcel (whether or not affixed to such real estate), but excluding Personalty.

“*Punch List Items*” has the meaning set forth in Section 7.03(b).

“*Purchase Closing Date*” has the meaning set forth in Section 18.02(b).

“*Purchase Offer*” has the meaning set forth in Section 18.01.

“*Real Estate Taxes*” has the meaning set forth in Section 6.04.

“*Regulated Substances*” means “petroleum” and “petroleum-based substances” or any similar terms described or defined in any of the Environmental Laws and any applicable federal, state, county or local Laws applicable to or regulating USTs.

“*REIT*” means a real estate investment trust as defined under Section 856 of the Code.

“*Release*” means any presence, release, deposit, discharge, emission, leaking, spilling, seeping, migrating, injecting, pumping, pouring, emptying, escaping, dumping, disposing or other movement of Hazardous Materials, Regulated Substances or USTs or any Threatened Release.

“*Remediation*” means any response, remedial, removal, or corrective action, any activity to cleanup, detoxify, decontaminate, contain or otherwise remediate any Hazardous Materials, Regulated Substances or USTs, any actions to prevent, cure or mitigate any Release, any action to comply with any Environmental Laws or with any permits issued pursuant thereto, any inspection, investigation, study, monitoring, assessment, audit, sampling and testing, laboratory or other analysis, or any evaluation relating to any Hazardous Materials, Regulated Substances or USTs.

“*Rental*” means, collectively, the Base Annual Rental and the Additional Rental.

“*Rental Adjustment*” means an amount equal to the lesser of (a) 2% of the Base Annual Rental in effect immediately prior to the applicable Adjustment Date, or (b) the product of (i) the percentage change between the Price Index for the month which is two months prior to the Effective Date or the Price Index used for the immediately preceding Adjustment Date, as applicable, and the Price Index for the month which is two months prior to the applicable Adjustment Date; and (ii) the then current Base Annual Rental.

“*Rent Commencement Date*” means two (2) months following the earlier to occur of the Occupancy Date or the Final Disbursement.

*"Requisition"* means any temporary requisition or confiscation of the use or occupancy of the Property by any Governmental Authority, civil or military, whether pursuant to an agreement with such Governmental Authority in settlement of or under threat of any such requisition or confiscation, or otherwise.

*"Reserve"* has the meaning in Section 6.04.

*"Securities"* has the meaning set forth in Section 17.10.

*"Securities Act"* means of the Securities Act of 1933, as amended.

*"Securitization"* has the meaning set forth in Section 17.10.

*"Security Deposit"* has the meaning set forth in the Existing Building Lease.

*"Subject Purchase Price"* has the meaning set forth in Section 18.01.

*"Successor Lessor"* has the meaning set forth in Section 13.03.

*"Taking"* means (a) any taking or damaging of all or a portion of the Property (i) in or by condemnation or other eminent domain proceedings pursuant to any Law, general or special; (ii) by reason of any agreement with any condemnor in settlement of or under threat of any such condemnation or other eminent domain proceeding; or (iii) by any other means; or (b) any de facto condemnation. The Taking shall be considered to have taken place as of the later of the date actual physical possession is taken by the condemnor, or the date on which the right to compensation and damages accrues under the Law applicable to the Property.

*"Temporary Taking"* has the meaning set forth in Section 11.04.

*"Termination Option"* has the meaning set forth in Section 7.03(b).

*"Third Party Offer"* has the meaning set forth in Section 18.01.

*"Threatened Release"* means a substantial likelihood of a Release which requires action to prevent or mitigate damage to the soil, surface waters, groundwaters, land, stream sediments, surface or subsurface strata, ambient air or any other environmental medium comprising or surrounding the Property which may result from such Release.

*"Total Condemnation"* has the meaning set forth in Section 11.02.

*"Transaction"* has the meaning set forth in Section 14.01.

*"Transaction Documents"* means this Lease, the Guaranty and all documents related thereto.

*"U.S. Publicly Traded Entity"* means an entity whose securities are listed on a national securities exchange or quoted on an automated quotation system in the United States or a wholly-owned subsidiary of such an entity.

“USTs” means any one or combination of tanks and associated product piping systems used in connection with storage, dispensing and general use of Regulated Substances.

“Warranties” has the meaning set forth in Section 2.04.

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4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1

**EXHIBIT B**

**LEGAL DESCRIPTION AND  
STREET ADDRESS OF THE PROPERTY**

**Property:** The "Property" initially being leased by Lessee consists of the real property and improvements representing the unshaded portion of the Entire Parcel depicted in the drawing below.

**Existing Building Area:** The "Existing Building Area" means the real property and improvements representing the shaded portion of the Entire Parcel depicted in the drawing below.

Address and Legal Description of the Entire Parcel:

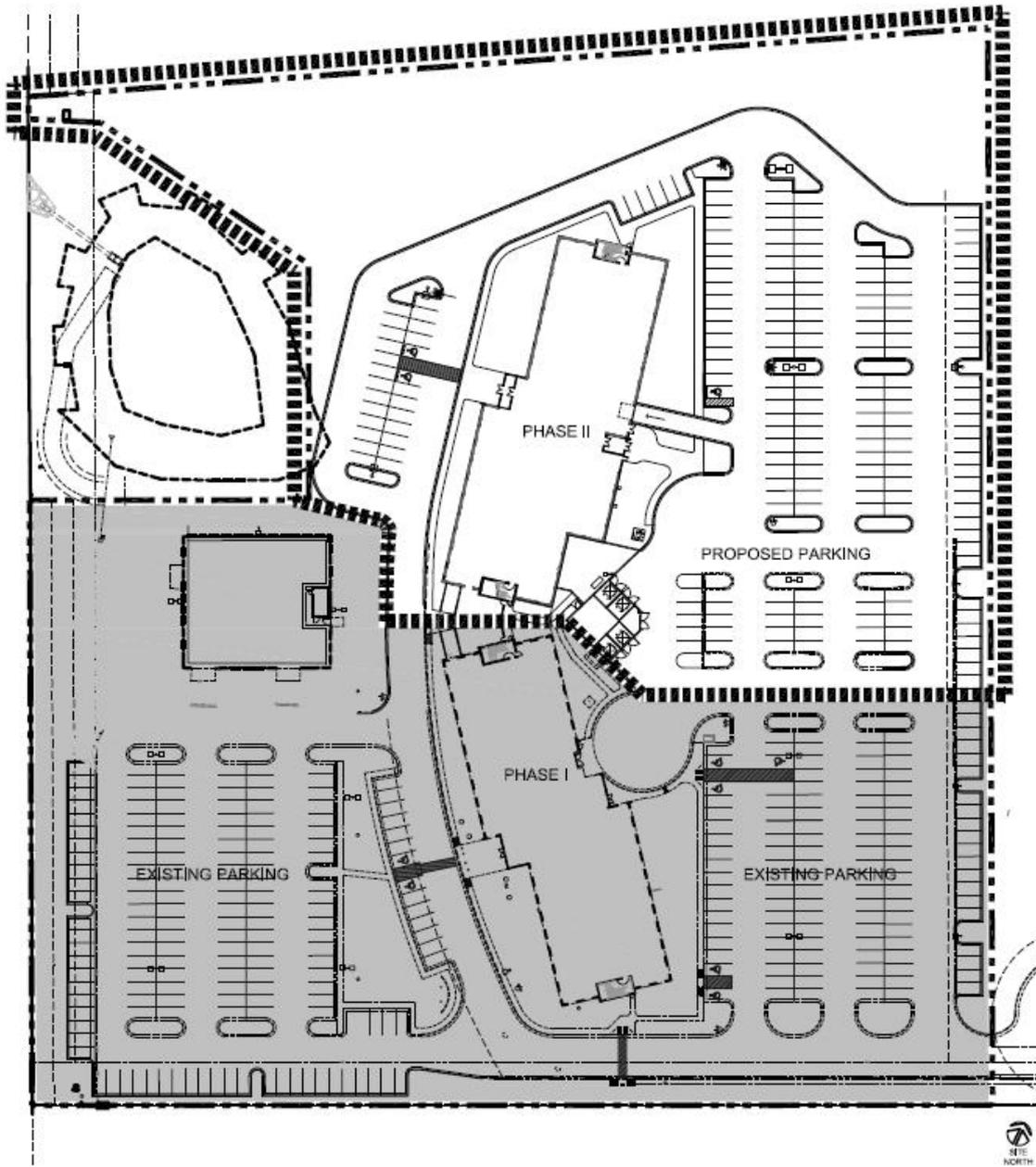
12515 and 12575 Academy Ridge View, Colorado Springs, CO 80921

Lot 1 in RT Logic Subdivision Filing No. 1, as amended by Affidavit of Correction, recorded October 17, 2005 at Reception No. 205165253 and Affidavit of Agreement recorded November 9, 2005 at Reception No. 205180227 in the City of Colorado Springs, County of El Paso, State of Colorado.

**Drawing of the Entire Parcel** (including the Property (i.e., unshaded portion of the Entire Parcel) and the Existing Building Area (i.e., shaded portion of the Entire Parcel)): (see next page)

B-1

4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1



A-2

4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1

**EXHIBIT C**

**INCOMING WIRE INSTRUCTIONS**

Please give these instructions to your bank when you initiate a wire payment to STORE CAPITAL ACQUISITIONS, LLC:

Bank Name: PNC Bank  
500 First Ave, 3<sup>rd</sup> Floor  
Pittsburgh, PA 15219  
ABA: 043000096  
Account No.: 1006967647  
Credit: Midland Wire Receipts  
Reference: RT Logic (Kratos)

\* This information must be completed fully and accurately to ensure that there is no delay in crediting funds to the proper account.

C-1

**EXHIBIT D**

**STATE-SPECIFIC PROVISIONS**

None.

D-1

4837-1132-0135.14  
STORE / RT Logic (Kratos)  
Lease Agreement (New Building Area)  
File No.: 7210/02-525.1

**EXHIBIT E**

**CONSTRUCTION COMMENCEMENT DATE CERTIFICATE**

**CONSTRUCTION COMMENCEMENT DATE CERTIFICATE**

This Construction Commencement Date Certificate is executed by Developer and delivered and agreed to by Lessee and Lessor pursuant to the terms of that certain Lease Agreement dated [ ] (the "Lease"), by and between STORE CAPITAL ACQUISITIONS, LLC, a Delaware limited liability company ("Lessor"), and REAL TIME LOGIC, INC., a Colorado corporation ("Lessee"), and that certain Development and Disbursement Agreement by and between Lessor and VIAWEST PROPERTIES, LLC, an Arizona limited liability company ("Developer"), and acknowledged and agreed to by Lessee, dated [ ] (the "Disbursement Agreement").

Developer hereby represents and warrants to Lessee and Lessor (a) that Developer has received STORE's and Lessee's written approval of the final Budget (as defined in the Disbursement Agreement), (b) that the General Contract, the Architect's Agreement, the construction schedule, all construction plans and specifications and all necessary permits and approvals required to commence construction of the Improvements have been received by Developer and approved in writing by STORE and Lessee, and (c) that Developer shall commence such construction activities on [ ], 2017 (the "Construction Commencement Date").

Per the terms and conditions of the Lease and the Disbursement Agreement, the term "Construction Commencement Date" in both the Lease and the Disbursement shall, upon execution of this Certificate by Developer, Lessee and Lessor, automatically hereinafter refer to the Construction Commencement Date set forth above.

Developer, Lessee and Lessor have caused this Construction Commencement Date Certificate to be executed by a duly authorized officer as of [ ], 2017.

**DEVELOPER:**

**VIAWEST PROPERTIES, LLC,**  
an Arizona limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LESSEE:**

**REAL TIME LOGIC, INC.,**  
a Colorado corporation

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**LESSOR:**

**STORE CAPITAL ACQUISITIONS, LLC,**  
a Delaware limited liability company

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT F**

**OCCUPANCY DATE CERTIFICATE**

OCCUPANCY DATE CERTIFICATE

This Occupancy Date Certificate is executed by Lessee and Lessor pursuant to the terms of that certain Lease Agreement dated [\_\_\_\_\_] (the "Lease"), by and between STORE CAPITAL ACQUISITIONS, LLC, a Delaware limited liability company ("Lessor"), and REAL TIME LOGIC, INC., a Colorado corporation ("Lessee").

Lessee and Lessor hereby confirm that the Occupancy Date of the Lease shall be [\_\_\_\_\_] 20[\_\_\_], and that the definition of Occupancy Date set forth in the Lease shall hereinafter be amended to mean [\_\_\_\_\_] 20[\_\_\_] for all purposes.

Lessee and Lessor have each caused this Occupancy Date Certificate to be executed by a duly authorized officer as of [\_\_\_\_\_] 20[\_\_\_].

**LESSEE:**

**REAL TIME LOGIC, INC.,**  
a Colorado corporation

By:\_\_\_\_\_

Printed Name:\_\_\_\_\_

Title:\_\_\_\_\_

**LESSOR:**

**STORE CAPITAL ACQUISITIONS, LLC,**  
a Delaware limited liability company

By:\_\_\_\_\_

Printed Name:\_\_\_\_\_

Title:\_\_\_\_\_

## SCHEDULE 8.01

### PROHIBITED USES

1. Adult bookstore, video store or other establishment engaged in the business of selling, renting, exhibiting or delivering pornographic or obscene materials, except that this provision shall not prohibit (a) book stores that are not perceived to be and do not hold themselves out as an "adult book store" and are primarily engaged in the sale of general audience books notwithstanding the incidental concurrent sale of books, magazines and/or periodicals that may contain pornographic materials, or (b) video stores primarily selling or renting video media that on the date of this Lease would be "G" "PG-13" or "R" rated (or an equivalent rating under any rating system that hereafter replaces the current system and is in general use), notwithstanding the incidental concurrent rental of "X-rated" or "Not Rated" video media solely for off premises viewing and without means of on premises review in connection with its selection; provided that such bookstore or video store does not engage in any promotion, advertising, depiction or description of any aspect of the X-rated or Not Rated" material of any kind, that the sale or rental thereof is not from any special or segregated section of the store, and that the sale or rental of such material to minors is prohibited;
2. So-called "head shops" or other establishments primarily engaged in the sale of merchandise that facilitates enhances, promotes or encourages the use of illegal drugs under federal, state and/or local law;
3. Off-track betting parlor;
4. Pawn shop;
5. "Second hand," "slightly used" or other businesses or activities primarily engaged in the sale of used merchandise;
6. Junk yard or flea market;
7. Stockyard or recycling facility;
8. Motor vehicle or boat storage facility;
9. Billiard parlor;
10. Dry cleaning or laundry plant (which shall not preclude a dry cleaning or laundry business);
11. Living quarters, sleeping apartments, or lodging rooms;
12. Mortuary;
13. Massage parlor; or
14. Refining, quarrying or mining operations of any kind.

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

I, Eric M. DeMarco, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Kratos Defense & Security Solutions, 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 (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 27, 2017

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

/s/ ERIC M. DEMARCO

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Eric M. DeMarco

*Chief Executive Officer, President*

*(Principal Executive Officer)*

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

I, Deanna H. Lund, certify that:

1. I have reviewed this quarterly report on Form 10-Q of Kratos Defense & Security Solutions, 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 (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):
  - (a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and
  - (b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: July 27, 2017

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

/s/ DEANNA H. LUND

Deanna H. Lund

*Executive Vice President, Chief Financial Officer*

*(Principal Financial Officer and Acting Principal Accounting Officer)*

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

In connection with the accompanying Quarterly Report of Kratos Defense & Security Solutions, Inc. (the "Company") on Form 10-Q for the quarter ended June 25, 2017 (the "Report"), I, Eric M. DeMarco, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: July 27, 2017

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

/s/ ERIC M. DEMARCO

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Eric M. DeMarco

*Chief Executive Officer, President*

*(Principal Executive Officer)*

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

In connection with the accompanying Quarterly Report of Kratos Defense & Security Solutions, Inc. (the "Company") on Form 10-Q for the quarter ended June 25, 2017 (the "Report"), I, Deanna H. Lund, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. Section 1350, as adopted pursuant to Section 906 of the Sarbanes-Oxley Act of 2002, that:

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

Date: July 27, 2017

KRATOS DEFENSE & SECURITY SOLUTIONS, INC.

/s/ DEANNA H. LUND

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Deanna H. Lund

*Executive Vice President, Chief Financial Officer*

*(Principal Financial Officer and Acting Principal Accounting Officer)*