
**UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549**

FORM 8-K

**CURRENT REPORT
Pursuant to Section 13 or 15(d)
of the Securities Exchange Act of 1934**

Date of report (Date of earliest event reported): April 11, 2022

MANITEX INTERNATIONAL, INC.

(Exact Name of Registrant as Specified in Charter)

Michigan
(State or Other Jurisdiction
of Incorporation)

001-32401
(Commission
File Number)

42-1628978
(IRS Employer
Identification No.)

9725 Industrial Drive, Bridgeview, Illinois 60455
(Address of Principal Executive Offices) (Zip Code)

(708) 430-7500
(Registrant's Telephone Number, Including Area Code)

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
- Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
- Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
- Pre-commencement communications pursuant to Rule 13e-4(c) under the Exchange Act (17 CFR 240.13e-4(c))

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

Title of each class	Trading Symbol(s)	Name of each exchange on which registered
Common Stock, no par value	MNTX	The NASDAQ Stock Market LLC
Preferred Share Purchase Rights	N/A	The NASDAQ Stock Market LLC

Indicate by check mark whether the registrant is an emerging growth company as defined in Rule 405 of the Securities Act of 1933 (§230.405 of this chapter) or Rule 12b-2 of the Securities Exchange Act of 1934 (§240.12b-2 of this chapter).

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.

Item 1.01. Entry into a Material Definitive Agreement.

Acquisition of Rabern Rentals

On April 11, 2022, Manitex International, Inc. (the “Company”) entered into a Membership Interest Purchase Agreement (the “Purchase Agreement”), with Rabern Rentals, LLC (“Rabern”) and Steven Berner. Pursuant to the Purchase Agreement, the Company acquired a 70% membership interest in Rabern for a purchase price of \$25.9 million in cash (the “Transaction”), subject to the various adjustments, escrows and other provisions of the Purchase Agreement. The Purchase Agreement contains customary representations, warranties, covenants and indemnities for a transaction of this type. A total of \$5 million of the purchase price will be held in escrow for various purposes, as described in the Purchase Agreement. Rabern is a construction equipment rental provider primarily servicing Northern Texas, which was established in 1984. Steven Berner, the president and founder of Rabern, will retain a 30% ownership interest and continue to run the operation as a stand-alone division of the Company.

Immediately following the closing of the Transaction, each of the Company and Berner contributed all of their respective membership interests in Rabern to Rabern Holdco, Inc., a newly formed Delaware corporation (“Holdco”), in exchange for Holdco common stock, such that Holdco now owns a 99% interest in Rabern, and Rabern, Inc., a Texas corporation controlled by Berner owns the remaining 1%.

The foregoing description of the Purchase Agreement is qualified in its entirety by reference to the full text of the Purchase Agreement, which is attached as Exhibit 2.1 to this Current Report on Form 8-K and incorporated by reference herein.

Amarillo National Bank Financing

On April 11, 2022, the Company entered into a Commercial Credit Agreement (the “Credit Agreement”), by and among the Company, the Company’s domestic subsidiaries and Amarillo National Bank. The Credit Agreement provides for a \$40,000,000 revolving credit facility that matures on April 11, 2024, a \$30,000,000 revolving credit facility that matures on April 11, 2024, and a \$15,000,000 term loan that matures on October 11, 2029. Borrowings under the revolving credit facilities and the term loan bear interest at a floating rate equal to the Prime Rate (as defined in the applicable Note (as defined in the Credit Agreement)) plus 0.5%. The revolving credit facilities require monthly interest payments with the full principal balance coming due at maturity, and the \$30,000,000 revolving credit facility alone requires quarterly payments in the amount of 3% of the outstanding balance thereunder on a quarterly basis beginning on January 1, 2023. The term loan requires monthly interest payments with quarterly amortization payments beginning on November 11, 2022, and the remaining principal balance coming due at maturity. The unused balance of the revolving credit facilities incurs a 0.125% fee that is payable semi-annually.

The Credit Agreement requires the Borrower (as defined in Section 7.1 of the Credit Agreement and including the Company) to maintain a Debt Service Coverage Ratio (as defined in the Credit Agreement) of at least 1.25:1.00 measured on the last day of each calendar quarter, beginning June 30, 2022, and each measurement will be based on a rolling 12-month basis. The Credit Agreement also requires the Borrower (as defined in Section 7.2 of the Credit Agreement and including the Company) to maintain a Net Worth (as defined in the Credit Agreement) of at least \$80,000,000 measured as of the last day of each calendar quarter, beginning June 30, 2022.

Indebtedness under the Credit Agreement is secured by a lien on substantially all assets of the Company and its domestic subsidiaries. The Credit Agreement contains certain customary representations and warranties, affirmative and negative covenants and events of default.

The proceeds of the initial borrowings under the Credit Agreement will be used to fund a portion of the transactions contemplated by the Purchase Agreement and to refinance certain existing indebtedness of the Company as described below.

The foregoing description of the Credit Agreement is qualified in its entirety by reference to the full text of the Credit Agreement, which is attached as Exhibit 10.1 to this Current Report on Form 8-K and incorporated by reference herein.

Item 1.02. Termination of a Material Definitive Agreement.

In connection with the closing of the Transaction and the entry by the Company into the Credit Agreement, on April 11, 2022, the Company repaid in full all outstanding indebtedness and other amounts outstanding and terminated all commitments and obligations under that certain Loan and Security Agreement, dated as of July 20, 2016, as amended (the "Loan Agreement"), by and among the Company, Manitex Inc., Manitex Sabre, Inc., Badger Equipment Company, Crane and Machinery, Inc., Crane and Machinery Leasing, Inc., Manitex, LLC, and CIBC Bank USA (f/k/a The PrivateBank and Trust Company) and the lenders party thereto. The Company's payment to the lenders was approximately \$12.8 million, which satisfies all of the Company's debt obligations under the Loan Agreement. The Company was not required to pay any pre-payment premiums as a result of the repayment of indebtedness under the Loan Agreement. In connection with the repayment of such outstanding indebtedness by the Company, all security interests, mortgages, liens and encumbrances granted to the lenders under the Loan Agreement were terminated and released.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The disclosure in Item 1.01 of this Current Report on Form 8-K under the heading "Acquisition of Rabern Rentals" is incorporated into this Item 2.01 by reference.

Item 2.03. Creation of a Direct Financial Obligation or an Obligation under an Off-Balance Sheet Arrangement of a Registrant.

The disclosure in Item 1.01 of this Current Report on Form 8-K under the heading "Amarillo National Bank Financing" is incorporated into this Item 2.03 by reference.

Item 5.02. Departure of Directors or Certain Officers; Election of Directors; Appointment of Certain Officers; Compensatory Arrangements of Certain Officers.

Appointment of J. Michael Coffey

On April 11, 2022, the Company appointed J. Michael Coffey as Chief Executive Officer of the Company, effective as of April 11, 2022.

Mr. Coffey, age 51, has served as Managing Director of Resurgence Advisory, LLC, a consulting firm, since 2021. Prior to that, he served as Chief Operating Officer of H-E Parts International from 2009 until 2018, and then as Chief Executive Officer from 2018 until 2021. There are no arrangements or understandings required to be disclosed pursuant to Item 401(b) of Regulation S-K or family relationships required to be disclosed pursuant to Item 401(d) of Regulation S-K. Similarly, there are no transactions with related persons required to be disclosed pursuant to Item 404(a) of Regulation S-K involving Mr. Coffey.

In connection with his appointment as Chief Executive Officer of the Company, Mr. Coffey entered into an employment agreement with the Company effective as of April 11, 2022 (the “Employment Agreement”). Pursuant to the Employment Agreement, Mr. Coffey will serve as Chief Executive Officer of the Company for a term commencing on April 11, 2022 and continuing until the Employment Agreement is terminated by either the Company or Mr. Coffey. Mr. Coffey’s employment will be at will, and the Employment Agreement may be terminated by either party at any time, with or without cause.

Mr. Coffey will receive an annual base salary of \$400,000, which will be reviewed annually by the Compensation Committee of the Company’s board of directors (the “Board”), and will be eligible to receive annual cash incentives with an annual target bonus of 200% of his base salary, with 50% of the target bonus for 2022 guaranteed. In connection with his appointment, he will be granted (i) 100,000 restricted stock units with time-based vesting, (ii) 100,000 restricted stock units that vest upon a change of control under certain circumstances, (iii) up to 490,000 restricted stock units that would vest upon the attainment of certain Company stock price improvement milestones, and (iv) 100,000 options to purchase Company common stock. These grants will be made as an employment inducement award pursuant to NASDAQ Listing Rule 5635(c)(4). Mr. Coffey will also be entitled to employee benefits that the Company provides to employees generally, including medical benefits, participation in retirement plans and paid vacation time.

If the Employment Agreement is terminated by the Company without “cause,” by Mr. Coffey for “good reason” or due to his “permanent disability” (in each case as defined in the Employment Agreement), Mr. Coffey will be entitled to a severance payment of one year’s salary plus continued health plan coverage and the payment of then vested or unvested Company equity incentive awards. Receipt of any severance will be conditioned on the execution of a full release of all claims against the Company and related persons and compliance by Mr. Coffey with a non-disparagement provision. If he is terminated for cause or if he resigns, Mr. Coffey is entitled to no severance payment, but will receive the value of any accrued and unpaid salary, earned but unpaid bonus and accrued but unused vacation.

The foregoing description of the Employment Agreement is qualified in its entirety by reference to the full text of the Employment Agreement, which is attached as Exhibit 10.2 to this Current Report on Form 8-K and incorporated by reference herein.

Transition of Steve Filipov

In connection with Mr. Coffey’s appointment as Chief Executive Officer, the Company announced that Steve Filipov, who has served as the Company’s Chief Executive Officer since September 2019, will transition into the role of Special Advisor to the Company, effective as of April 11, 2022. Mr. Filipov is expected to transition off of the Board in connection with Mr. Coffey’s expected election to the Board.

Item 7.01 Regulation FD Disclosure.

On April 11, 2022, the Company issued a press release regarding the Rabern acquisition, the new financing arrangement with Amarillo National Bank and Mr. Coffey’s appointment as Chief Executive Officer. A copy of the press release is furnished herewith as Exhibit 99.1 and is incorporated herein by reference to this Item 7.01.

The information set forth in this Item 7.01 including the information set forth in Exhibit 99.1 shall not be deemed “filed” for purposes of Section 18 of the Securities Exchange Act of 1934, as amended (the “Exchange Act”), or otherwise subject to the liabilities of that section, nor shall it be deemed incorporated by reference in any filing under the Securities Act of 1933, as amended, or the Exchange Act, regardless of any general incorporation language in such filing.

Forward-Looking Statements

This Current Report on Form 8-K contains forward-looking statements within the meaning of The Private Securities Litigation Reform Act of 1995. The Company may, in some cases, use terms such as “predicts,” “forecasts,” “believes,” “potential,” “proposed,” “continue,” “estimates,” “anticipates,” “expects,” “plans,” “intends,” “may,” “could,” “might,” “should” or other words that convey uncertainty of future events or outcomes to identify these forward-looking statements. Examples of forward-looking statements contained in this Current Report on Form 8-K include, among others, statements regarding the Restructuring, including the expected expenses to be incurred therewith. Such statements are subject to numerous important factors, risks and uncertainties that may cause actual events or results, performance, or achievements to differ materially from the Company’s current expectations. If the underlying assumptions prove inaccurate or known or unknown risks or uncertainties materialize, actual results could vary materially from the expectations and projections of the Company. A further list and descriptions of these risks, uncertainties and other factors can be found in the Company’s most recently filed Quarterly Report on Form 10-Q and in the Company’s subsequent filings with the Securities and Exchange Commission. Copies of these filings are available online at www.sec.gov. Forward-looking statements included herein speak only as of the date hereof and the Company undertakes no obligation to revise or update such statements to reflect the occurrence of events or circumstances after the date hereof.

Item 9.01. Financial Statements and Exhibits.

(a) Financial Statements of Businesses Acquired

The financial statements required by this item are not being filed herewith. To the extent such information is required by this item, it will be filed with the Securities and Exchange Commission (the “SEC”) by amendment to this Current Report on Form 8-K no later than 71 days after the date on which this Current Report on Form 8-K is required to be filed.

(b) Pro Forma Financial Information

The pro forma financial information required by this item is not being filed herewith. To the extent such information is required by this item, it will be filed with the SEC by amendment to this Current Report on Form 8-K no later than 71 days after the date on which this Current Report on Form 8-K is required to be filed.

(d) Exhibits

<u>Exhibit No.</u>	<u>Description</u>
2.1	<u>Membership Interest Purchase Agreement, dated as of April 11, 2022, by and among Rabern Rentals, LLC, a Delaware limited liability company, Steven Berner and Manitex International, Inc., a Michigan corporation.*</u>
10.1	<u>Commercial Credit Agreement, dated as of April 11, 2022, by and among Manitex International, Inc., Manitex, Inc., Manitex, LLC, Crane and Machinery, Inc., Crane and Machinery Leasing, Inc., Manitex Sabre Inc., Badger Equipment Company, Rabern Holdco, Inc. and Rabern Rentals, LLC, and Amarillo National Bank.*</u>
10.2	<u>Employment Agreement, effective as of April 11, 2022, between Manitex International, Inc. and J. Michael Coffey.</u>
99.1	<u>Press Release dated April 11, 2022.</u>
104	Cover Page Interactive Data File (embedded within the Inline XBRL document).

* The Company has omitted certain schedules and similar attachments to such agreements pursuant to Item 601(a)(5) of Regulation S-K. The Company undertakes to furnish a copy of such omitted documents to the SEC upon request.

SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the Company has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

MANITEX INTERNATIONAL, INC.

By: _____ /s/ Joseph Doolan
Name: Joseph Doolan
Title: Chief Financial Officer

Date: April 13, 2022

MEMBERSHIP INTEREST PURCHASE AGREEMENT

THIS MEMBERSHIP INTEREST PURCHASE AGREEMENT (this "Agreement") is made and entered into as of April 11, 2022, by and among Rabern Rentals, LLC, a Delaware limited liability company (the "Company"), Steven Berner ("Berner"), and Manitex International, Inc., a Michigan corporation ("Purchaser"). The Company, Berner and Purchaser are sometimes collectively referred to herein as the "Parties" and individually as a "Party." Capitalized terms used herein and not otherwise defined herein shall have the meanings given to such terms in Section V below.

WHEREAS, at least one day prior to the date hereof, Berner and Rabern, Inc., a Texas corporation ("Rabern Corp"), caused Rabern Rentals, LP, a Texas limited partnership ("LP"), to be converted to the Company pursuant to the Laws of the States of Texas and Delaware (for the avoidance of doubt, any reference to the "Company" herein shall refer to LP for any period prior to such conversion);

WHEREAS, prior to the transactions contemplated by this Agreement, (i) Purchaser loaned approximately Thirteen Million Dollars (\$13,000,000) to the Company, which loan was evidenced by the Promissory Note issued by the Company to Purchaser, and (ii) the Company used the loan proceeds to repay the Existing Loan to the Existing Lender;

WHEREAS, on the terms and subject to the conditions set forth herein, Purchaser desires to purchase a seventy percent (70%) membership interest in the Company from Berner (the "Berner Interest"), and Berner desires that Purchaser purchase the Berner Interest from Berner for an aggregate purchase price equal to the Purchase Price (as defined below) (the "Interest Purchase");

WHEREAS, immediately following the Interest Purchase, each of Purchaser and Berner shall contribute (the "Contribution") all of their respective membership interests in the Company to Rabern Holdco, Inc., a newly formed Delaware corporation ("Holdco"), in exchange for stock of Holdco, such that following the Contribution, Holdco will own a ninety-nine percent (99%) membership interest in the Company and Rabern Corp shall own the remaining one percent (1%) membership interest;

WHEREAS, contemporaneously with the transactions contemplated by the preceding recitals, the members of the Company shall enter into a Limited Liability Company Agreement of the Company in the form of Exhibit A attached hereto (the "LLC Agreement"); and

WHEREAS, contemporaneously with the transactions contemplated by the preceding recitals, the stockholders of Holdco shall enter into a Stockholders Agreement of Holdco (the "Stockholders Agreement").

NOW, THEREFORE, in consideration of the mutual covenants, agreements and understandings contained herein, and intending to be legally bound, the Parties hereby agree as follows:

**SECTION I
PURCHASE AND SALE**

1.1 Transfer of the Berner Interest. Upon the terms and subject to the conditions of this Agreement, on the Closing Date (as defined below) and at the Closing (as defined below), Berner shall sell, assign, transfer, and convey to Purchaser, and Purchaser shall purchase, acquire, and accept from Berner, the Berner Interest free and clear of all Encumbrances.

1.2 Consideration.

(a) The gross cash consideration that Purchaser shall pay Berner for the Berner Interest shall be equal to \$25,900,000, which shall be subject to the various adjustments, escrows and other provisions hereof (the "Purchase Price").

(b) At the Closing, Purchaser shall deposit an aggregate amount equal to the sum of the Indemnity Escrow Amount, the Adjustment Escrow Amount and the Fleet Escrow Amount (the "Escrow Amount") into an escrow account (the "Escrow Account") established pursuant to the terms of the Escrow Agreement. Any costs and expenses of the Escrow Agent in connection with the Escrow Agreement shall be borne equally by Purchaser and Berner.

1.3 Calculation of Adjustment Amount.

(a) Within sixty (60) calendar days after the Closing, Purchaser shall prepare and deliver or cause to be prepared and delivered to Berner a statement (the "Closing Statement") setting forth a good faith calculation of (i) the Net Working Capital of the Company as of the Effective Time (the "Closing Net Working Capital"), (ii) the Indebtedness of the Company as of immediately prior to the Effective Time (but calculated to include any amounts that only become payable if the Closing occurs) (the "Closing Indebtedness Amount"), and (iii) the Adjustment Amount based on such amount. The Closing Statement will be prepared in accordance with the principles set forth on Schedule 1.3(a) (collectively, the "Accounting Principles").

(b) If Berner disputes any amounts reflected on the Closing Statement as delivered by Purchaser, Berner shall so notify Purchaser in writing (a "Notice of Dispute") not more than twenty-one (21) calendar days after the date Purchaser receives the Closing Statement, specifying in reasonable detail all points of disagreement (any such disagreement hereinafter, a "Disagreement"). If Berner fails to deliver a Notice of Dispute within such twenty-one (21)-day period, Berner shall be deemed to have accepted the Closing Statement (and all amounts and calculations set forth thereon) and the Closing Statement as originally delivered by Purchaser (and all such amounts and calculations) shall be final, binding, and non-appealable by the Parties. If a Notice of Dispute is timely delivered, Berner and Purchaser shall negotiate in good faith to resolve any Disagreement (as evidenced by a written agreement between them). If any Disagreement is not resolved by Purchaser and Berner in writing within twenty-one (21) calendar days after Purchaser receives the Notice of Dispute, Purchaser and Berner shall refer the Disagreement to an independent nationally recognized accounting firm that is mutually agreed to by Purchaser and Berner in writing (the "Accountant") for resolution of such Disagreement in accordance with the terms of this Agreement. Purchaser and Berner shall instruct the Accountant that the determinations of such firm with respect to any Disagreement shall be rendered within fifteen (15) calendar days after the referral of the Disagreement or as soon thereafter as reasonably possible. The scope of the disputes to be resolved by the Accountant shall be limited to whether the unresolved items in dispute that were included in the Notice of Dispute were prepared in accordance with this Agreement, including the Accounting Principles, and the Accountant shall determine, on such basis, whether and to what extent the Closing Statement requires adjustment. The Accountant's decision shall be based solely on written submissions and presentations by Berner and Purchaser and their respective representatives and not by independent review. The Accountant shall address only those items in dispute and may not assign a value greater than the greatest value claimed for such item by either Party or smaller than the smallest value for such item claimed by either Party. The determination of the Accountant pursuant to this Section 1.3(b) shall be final and binding on the Parties. The fees, costs, and expenses of the Accountant shall be allocated between Berner, on the one hand, and Purchaser, on the other hand, in the same proportion that the aggregate amount of the disputed items submitted to the Accountant that is unsuccessfully disputed by each such Party (as finally determined by the Accountant) bears to the total amount of disputed items so submitted; provided, that such fees, costs, and expenses shall not include, so long as a Party complies with the procedures of this Section 1.3, the other Party's outside counsel or accounting fees. The Closing Net Working Capital and the Closing Indebtedness Amount, each as set forth on the Closing Statement as finally determined in accordance with the terms of this Section 1.3(b), shall be referred to as the "Final Net Working Capital" and the "Final Indebtedness Amount," respectively.

(c) If the Adjustment Amount, as finally determined pursuant to this Section 1.3, is a positive number, Purchaser and Berner will, within five (5) business days after the date on which the Adjustment Amount is finally determined pursuant to this Section 1.3 (the “Final Resolution Date”), deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to (i) pay to Purchaser from the Escrow Account an aggregate amount equal to the Adjustment Amount and (ii) pay to Berner the remaining balance, if any, of the Adjustment Escrow Amount in the Escrow Account after giving effect to subpart (i) above. If the Adjustment Amount is greater than the Adjustment Escrow Amount, then, within ten (10) business days after the Final Resolution Date, Berner shall make an aggregate payment equal to such excess to Purchaser to an account designated by Purchaser.

(d) If the Adjustment Amount, as finally determined pursuant to this Section 1.3, is a negative number, (i) Purchaser will, within ten (10) business days after the Final Resolution Date, pay Berner an amount equal to the absolute value of such Adjustment Amount; and (ii) Purchaser and Berner will, within ten (10) business days after the Final Resolution Date, deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to pay to Berner the balance of the Adjustment Escrow Amount in the Escrow Account.

(e) Any payment of an Adjustment Amount will be treated as an adjustment to the Purchase Price for all Tax purposes, unless otherwise required by applicable Law.

1.4 Calculation of Rental Fleet Adjustment Amount.

(a) Within sixty (60) calendar days after the Closing, Purchaser shall prepare and deliver or cause to be prepared and delivered to Berner a statement (the “Rental Fleet Statement”). The Rental Fleet Statement shall set forth a good faith calculation of the “Rental Fleet Adjustment Amount,” which shall be calculated as follows:

(i) 30% of the difference between (x) the Company’s actual Indebtedness at Closing (the “Closing Indebtedness”) *minus* (y) the Company’s Indebtedness as of December 31, 2021; *minus*

(ii) 70% of the value of the Company’s rental fleet assets acquired between January 1, 2022 and the Closing Date (the “Rental Fleet Assets Increase Amount”), *plus*

(iii) the amount of the Rental Fleet Acquisition Payment.

By way of example, if the Company’s Indebtedness at Closing was \$15,400,000, the Company’s Indebtedness as of December 31, 2021 was \$13,000,000, and the Rental Fleet Assets Increase Amount was \$2,000,000, then the Rental Fleet Adjustment Amount would be \$720,000 (30% of \$15,400,000 *minus* \$13,000,000), *minus* \$1,400,000 (70% of \$2,000,000), *plus* \$1,340,005.14 = \$660,005.14.

(b) If Berner disputes any amounts reflected on the Rental Fleet Statement as delivered by Purchaser, the dispute resolution procedures set forth in Section 1.3(b) above shall be used to resolve any such disputes.

(c) Upon determination of the Rental Fleet Adjustment Amount, as finally determined pursuant to this Section 1.4, (x) if the Rental Fleet Adjustment amount is a negative number, Purchaser and Berner will, within five (5) business days after the date on which the Rental Fleet Adjustment Amount is finally determined pursuant to this Section 1.4 deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to (i) pay to Purchaser from the Escrow Account an aggregate amount equal to the Rental Fleet Adjustment Amount and (ii) pay to Berner the remaining balance, if any, of the Fleet Escrow Amount in the Escrow Account after giving effect to subpart (i) above, and (y) if the Rental Fleet Adjustment amount is a positive number, Purchaser and Berner will, within five (5) business days after the date on which the Rental Fleet Adjustment Amount is finally determined pursuant to this Section 1.4 deliver a joint written instruction to the Escrow Agent instructing the Escrow Agent to pay to Berner the remaining balance of the Fleet Escrow Amount in the Escrow Account, and in addition, Purchaser will pay to Berner any amount by which the absolute value of the Rental Fleet Adjustment Amount exceeds the Rental Fleet Escrow Amount.

(d) Any payment of a Rental Fleet Adjustment Amount will be treated as an adjustment to the Purchase Price for all Tax purposes, unless otherwise required by applicable Law.

1.5 Closing. The closing of the transactions contemplated hereby (the “Closing”) shall take place remotely via the exchange of documents and signatures on the date of execution of this Agreement (the “Closing Date”). At the Closing, the Parties shall consummate the transactions contemplated by this Agreement in the following manner and simultaneously, but none of the transactions described below shall be consummated unless all of such transactions are consummated.

(a) Immediately prior to the Closing, (i) the Company shall execute and deliver the Promissory Note to Purchaser, and (ii) Purchaser, at the direction of the Company shall make payment to the Existing Lender the principal amount referenced in the Promissory Note which amount shall be the amount necessary to fully repay the Existing Loan as set forth on the payoff letter delivered with respect to the Existing Loan pursuant to Section 1.5(c) (v) hereof.

(b) At the Closing, Purchaser shall deliver, or cause to be delivered to Berner:

(i) by wire transfer of immediately available funds to an account designated in writing by Berner, an aggregate amount equal to the Closing Payment;

(ii) by wire transfer of immediately available funds to an account designated by the Escrow Agent, an amount equal to the Escrow Amount;

(iii) the LLC Agreement, duly executed by Purchaser;

(iv) the Escrow Agreement, duly executed by Purchaser;

(v) the Stockholders Agreement, duly executed by Purchaser;

(vi) an employment agreement by and among Purchaser and Berner (the “Berner Employment Agreement”), duly executed by Purchaser;

(vii) executed copies of the New Lease Agreements duly executed by the landlord party thereto and the Company, as well as evidence to Purchaser’s satisfaction that all such New Lease Agreements have been duly executed by a party that is duly authorized to do so; and

(viii) such other documents, instruments and certificates as Berner may reasonably request in connection with the transactions contemplated by this Agreement.

(c) At the Closing, Berner shall deliver, or cause to be delivered, to Purchaser:

(i) the written release of all Liens relating to the Assets (as defined below) of the Company or Encumbrances relating to the Berner Interests other than Permitted Encumbrances, executed by the holder of or parties to each such Lien or Encumbrance;

(ii) the LLC Agreement, duly executed by each of Rabern Corp and Berner;

(iii) the Berner Employment Agreement, duly executed by Berner;

(iv) the Escrow Agreement, duly executed by Berner;

(v) payoff letter from Existing Lender for Existing Loan;

(vi) the Stockholders Agreement, duly executed by Berner;

(vii) with respect to all Indebtedness of the Company, payoff letters from each appropriate third-party lender in form and substance satisfactory to Purchaser;

(viii) a copy of all filings required to be made by the Company and all Licenses and other authorizations and consents required to be obtained under all applicable Laws, in order to consummate the transactions contemplated by this Agreement in compliance with such Laws, in each case on terms and conditions reasonably satisfactory to Purchaser;

(ix) a copy of all third-party consents and approvals that are necessary for the consummation of the transactions contemplated hereby or that are required in order to prevent a breach of or default under, a termination or modification of, or acceleration of the terms of, any contract, agreement, instrument or document, all of which are identified with an asterisk (*) on Schedule 2.12, in each case on terms and conditions reasonably satisfactory to Purchaser;

(x) certified copies of the resolutions duly adopted by the manager of the Company and the requisite approvals duly obtained from the members of the Company authorizing the execution, delivery and performance of this Agreement and each of the other agreements contemplated hereby (including the LLC Agreement) and the consummation of the transactions contemplated hereby and thereby;

(xi) evidence, to Purchaser's reasonable satisfaction, of the termination of the Supplemental Income Plan;

(xii) a properly completed and duly executed Internal Revenue Service Form W-9 from Berner; and

(xiii) such other documents, instruments and certificates as Purchaser may reasonably request in connection with the transactions contemplated by this Agreement.

1.6 Withholding. Notwithstanding any other provision of this Agreement to the contrary, Purchaser shall be entitled to deduct and withhold from any consideration otherwise payable under the terms of this Agreement such amounts as it is required to deduct and withhold pursuant to any provision of applicable Law. To the extent that amounts are so withheld by Purchaser under any provision of this Agreement, such withheld amounts (i) shall be remitted by Purchaser to the applicable Governmental Entity in accordance with applicable Law and (ii) shall be treated for all purposes of this Agreement as having been paid to the recipient in respect of which such deduction and withholding was made.

1.7 Indemnity Escrow. The Indemnity Escrow Amount shall be available to satisfy any Losses incurred by any Purchaser Indemnified Persons for which the Purchaser Indemnified Persons are indemnified pursuant to Section 7.2. If Berner becomes obligated (whether through mutual agreement between Purchaser and Berner, as a result of a final non-appealable judicial determination or otherwise finally determined in accordance with the terms hereof) to provide indemnification or another payment pursuant to or in accordance with the terms of this Agreement, Purchaser and Berner shall, if necessary for release of funds from the escrow, execute joint written instructions to the Escrow Agent to disburse the appropriate amounts from the Escrow Amount in accordance with the terms of this Agreement and the Escrow Agreement. After a period of 18 months from the Closing Date, Purchaser and Berner shall, if necessary for release of funds from the escrow, execute joint written instructions to the Escrow Agent to disburse any remaining portion of the Indemnity Escrow Amount to Berner, in accordance with the terms of the Escrow Agreement. Notwithstanding the foregoing, subject to the terms of the Escrow Agreement, if Purchaser does not execute a joint written instruction with Berner to the Escrow Agent, within 10 days after expiration of the 18-month period described in the preceding sentence and after written request of Berner to Purchaser to execute such joint written instruction, Purchaser agrees Berner may unilaterally direct the Escrow Agent to disburse the remaining portion of the Indemnity Escrow Amount to Berner.

SECTION II REPRESENTATIONS AND WARRANTIES WITH RESPECT TO BERNER AND THE COMPANY

As a material inducement to Purchaser to enter into this Agreement and purchase the Berner Interest hereunder, Berner and the Company hereby represent and warrant to Purchaser as follows:

2.1 Organization. Each of the Company and its Subsidiaries is duly organized, validly existing and in good standing under the Laws of its state of organization and is qualified to do business in every jurisdiction in which failure to qualify, individually or in the aggregate, would cause a Material Adverse Effect. The Company and its Subsidiaries possess all requisite limited liability company power and authority to carry on its businesses as presently conducted and to carry out the transactions contemplated by this Agreement.

2.2 Equity Interests and Related Matters.

(a) Immediately prior to the date hereof, the authorized and outstanding Equity Interests of the Company consists solely of those Equity Interests set forth on Schedule 2.2(a) attached hereto, and such Equity Interests are held of record as set forth on Schedule 2.2(a) attached hereto. Each of the Equity Interests referred to in the immediately preceding sentence has been duly authorized and validly issued.

(b) Except as set forth on Schedule 2.2(b), neither the Company nor any of its Subsidiaries has any outstanding Equity Interests or securities or rights containing any profit participation features, or any rights or options to subscribe for or to purchase any Equity Interests or any equity appreciation rights or phantom equity-type plans or rights (including any interest in the Company or its Subsidiaries not reflected in Schedule 2.2(b)) or any agreement, arrangement or right (contingent or otherwise) to payment based upon the equity or other valuation of the Company or any of its Subsidiaries. Neither the Company nor any of its Subsidiaries is subject to any obligation (contingent or otherwise) to repurchase or otherwise acquire or retire any Equity Interests or any warrants, options or other rights to acquire its Equity Interests, other than as expressly provided in or contemplated by this Agreement or the LLC Agreement or as set forth on Schedule 2.2(b). There are no statutory or contractual preemptive rights or rights of first refusal or other similar restrictions with respect to the purchase and sale of the Berner Interest hereunder, except as provided in the LLC Agreement. Neither the Company nor any of its

Subsidiaries have violated any Laws in connection with the offer, sale or issuance of any of its Equity Interests. Except for this Agreement, the LLC Agreement and as set forth on Schedule 2.2(b), attached hereto, there are no agreements or understandings between or among the Company and the holders of any of its Equity Interests or, to the Company's Knowledge, among any other Persons with respect to the voting or transfer of their respective Equity Interests or with respect to any other aspect of its governance.

2.3 Subsidiaries; Investments. Except as set forth on Schedule 2.3, the Company does not have any Subsidiaries and does not control directly or indirectly or have any direct or indirect equity participation in any corporation, partnership, trust, joint venture or other business association. Except as set forth on Schedule 2.3, the Company has not ever had any Subsidiary (that is not currently a Subsidiary) or any obligation to make any additional Investments in any Person.

2.4 Authorization. The execution, delivery and performance of each Transaction Document to which the Company is a party, and all of the transactions contemplated hereby and thereby have been duly authorized by the Company and, to the extent required under the Company's applicable Governing Documents or otherwise, its manager(s) and/or member(s). Each Transaction Document to which the Company is a party constitutes the valid and binding obligation of the Company, enforceable against the Company in accordance with its respective terms, except as such enforcement may be limited by Laws of general application relating to bankruptcy, insolvency and relief of debtors and general principles of equity.

2.5 Noncontravention. Except as set forth on Schedule 2.5, the execution and delivery by the Company of each Transaction Document to which it is a party, and all of the transactions contemplated hereby and thereby and the fulfillment of and compliance with the respective terms hereof and thereof by the Company do not (a) violate or result in a breach of any provisions of the Company's or any of its Subsidiaries' Governing Documents, (b) violate, result in a breach of or constitute a default (whether after the giving of notice, lapse of time or both) under, any provision of any Law or order to which the Company or any of its Subsidiaries is subject, or (c) violate or result in a breach of any provision of, constitute a default (or an event which, with notice or lapse of time or both, would constitute a default) under, create in any Person the right to, accelerate, terminate, modify or cancel, require any notice under, or result in the imposition or creation of a Lien upon or with respect to any Equity Interests or Assets of the Company or any of its Subsidiaries under, any note, bond, mortgage, indenture, deed of trust, lease, or Material Contract (as defined below) to which the Company or any of its Subsidiaries are a party, or by which the Company or any of its Subsidiaries or any of their assets or properties are bound.

2.6 Financial Statements and Related Matters.

(a) Attached as Schedule 2.6 are the following financial statements (the "Financial Statements"): (i) the consolidated balance sheet of the Company as of as of December 31, 2021, and the related consolidated statements of income, changes in members' equity and cash flows for the year then ended, (ii) the consolidated balance sheet of the Company as of December 31, 2020, and the related consolidated statements of income, changes in members' equity and cash flows for the year then ended and (iii) the unaudited consolidated balance sheet of the Company as of March 31, 2022 (the "Latest Balance Sheet"), and the related consolidating statement of income for the three-month period then ended.

(b) Each of the foregoing Financial Statements (including the notes thereto, if any) is based upon the books and records of the Company and its Subsidiaries and presents fairly in all material respects the financial condition and results of operations and cash flows of the Company and its Subsidiaries as of the dates thereof and for the periods covered thereby and has been prepared in accordance with GAAP consistently applied, except as set forth in Schedule 2.6, throughout the periods covered thereby (subject in the case of the unaudited Financial Statements to the absence of footnote disclosures and normal year-end adjustments, which are not, individually or in the aggregate, material in nature).

2.7 Absence of Undisclosed Liabilities. Neither the Company nor any of its Subsidiaries have any Liabilities whatsoever, asserted or unasserted, liquidated or unliquidated, accrued, absolute, contingent, or otherwise, and there is no reasonable basis for any claim, action or proceeding with respect to any such Liability, other than (a) liabilities set forth on Schedule 2.7, (b) to the extent and for the amount reflected as a Liability or reserved against on the Latest Balance Sheet; (c) Liabilities incurred in the ordinary course of business since the date of the Latest Balance Sheet (none of which has had or may reasonably be expected to have an adverse effect upon the Company or its Subsidiaries); (d) for performance (but not for breach) and payment obligations incurred under arm's-length contracts for goods or services; or (e) Liabilities which are less than \$50,000, individually or in the aggregate.

2.8 No Material Adverse Effect. Since January 1, 2021 (i) there has occurred no fact, event or circumstance which has had or could reasonably be expected to have a Material Adverse Effect, and (ii) the Company and its Subsidiaries have conducted their respective businesses only in the ordinary course of business and consistent with past practice.

2.9 Absence of Certain Developments. Except as described on Schedule 2.9, since January 1, 2021, neither the Company nor any of its Subsidiaries have:

- (a) executed any guaranty, issued any notes, bonds or other debt securities or any Equity Interests, borrowed any amount or otherwise incurred or created any Indebtedness;
- (b) declared, set aside or made any payment or distribution of Cash or other property to any of its members or holders of profits or other Equity Interests in the Company or its Subsidiaries with respect to such Person's Equity Interests or otherwise (including any so-called "tax distribution"), or purchased, redeemed or otherwise acquired directly or indirectly any Equity Interests;
- (c) sold, assigned, transferred, leased, licensed or otherwise encumbered any of its material tangible Assets or any Intellectual Property, except in the ordinary course of business and consistent with past practice, or abandoned or permitted to lapse any Company Intellectual Property;
- (d) amended its Governing Documents (excluding the documents related to the conversion of the LP to the Company) or terminated (other than through performance) or amended in any material respect any agreement which would be a Material Contract if it were in effect (ignoring, if applicable, any such amendment) on the date of this Agreement;
- (e) made, granted or increased any bonus or any wage, salary, incentive arrangements or other compensation to any employee, director or consultant or group of employees (except, in the case of "rank-and-file" non-management employees, other than salary or wage increases in the ordinary course of business consistent with past practice), or made or granted any increase in any Employee Benefit Plan or arrangement, or adopted any new Employee Benefit Plan or arrangement;
- (f) directly or indirectly engaged in any transaction, arrangement or contract with any officer, manager, member or Affiliate of the Company or any of its Subsidiaries;
- (g) made any loans or advances to, guarantees for the benefit of, or any Investments in, any Person (including the incorporation, formation or organization of any Subsidiary), other than advances to the Company's employees in the ordinary course of business consistent with past practice;
- (h) suffered any damage, destruction or casualty loss (whether or not covered by insurance), or made any capital expenditures or commitments therefor exceeding, in the aggregate, \$25,000;

(i) made any charitable contributions exceeding, in the aggregate, \$5,000;

(j) made any change in any method of accounting or accounting policies not previously disclosed to Purchaser, other than those required by GAAP or the Code which have been disclosed in writing to Purchaser, or reversed any accounting accruals or reserves;

(k) entered into any agreement or arrangement prohibiting or restricting it from freely engaging in any business or otherwise restricting the conduct of its business;

(l) other than the Transaction Documents, entered into any Material Contract or exclusive licensing arrangement or any material transaction other than in the ordinary course of business consistent with past practices;

(m) made, amended or revoked any material election with respect to Taxes, amended any Tax Return (excluding any amended Tax Return set forth on Schedule 6.8), changed any accounting method or period relating to Taxes, consented to any waiver or extension of any statute of limitations with respect to Taxes or Tax Returns, settled or compromised any Liability regarding Taxes or entered into any closing agreement, surrendered any right to claim a Tax refund, offset or other reduction in Tax Liability, or made any voluntary Tax disclosures, Tax amnesty or other similar filing; or

(n) agreed, whether orally or in writing, to do any of the foregoing.

2.10 Assets. Except as set forth on Schedule 2.10, on the date hereof, the Company and any of its Subsidiaries have good and valid title to, a valid leasehold interest in, or a valid license to use, the properties and assets, tangible or intangible, used by it, located on its premises or shown on the Latest Balance Sheet or acquired thereafter, free and clear of all Liens, except for properties and assets disposed of in the ordinary course of business since the date of the Latest Balance Sheet (the "Assets") and except for Liens disclosed on the Latest Balance Sheet (including any notes thereto) and Permitted Encumbrances. Except as set forth on Schedule 2.10, the Assets constitute all of the assets, properties and rights, whether tangible or intangible, used in the conduct of the business of the Company and its Subsidiaries as currently conducted.

2.11 Tax Matters. Except as set forth on Schedule 2.11:

(a) The Company has timely filed all Tax Returns required to be filed and each such Tax Return has been prepared in compliance with applicable Laws and is true, correct and complete in all material respects. The Company has properly disclosed all reportable transactions as required by Treasury Regulation Section 1.6011-4 or comparable provision of state Law;

(b) All Taxes due and payable by or with respect to the Company have been timely and fully paid and there are no reasonable grounds for the assertion or assessment of additional Taxes against the Company or its Assets;

(c) The Company has timely and properly withheld and paid over to the proper Governmental Entity all Taxes required to have been withheld and paid over in connection with any amounts paid or owing to any member, partner, employee, independent contractor, creditor, shareholder or other third-party, including, but not limited to, amounts required to be withheld under Sections 1441, 1442, 1445, 1446, 1472, and 3402 of the Code (or any similar provisions of state, local or non-U.S. Law);

(d) There are no actions, suits, proceedings or audits with respect to Taxes, or any notices of inquiry with respect to any of the foregoing, pending against or being conducted with respect to the Company and no action, suit, proceeding or audit with respect to Taxes has been, to Company's Knowledge, threatened against or with respect to the Company;

(e) The Company has not waived any statutes of limitation in respect of Taxes or agreed to any extension of time with respect to a Tax assessment, deficiency, election or filing, which waiver or extension has not expired;

(f) True, correct and complete copies of all Income Tax Returns filed by the Company for each of the last three taxable periods have been made available to Purchaser. True, correct and complete copies of all Tax examination reports and statements of deficiencies assessed against, or agreed to, with respect to the Company have been made available to Purchaser;

(g) The Company (i) is not a party to or bound by any Tax indemnity, Tax allocation or Tax sharing agreement, (ii) does not have any current or potential contractual obligation to indemnify any other Person with respect to Taxes, and (iii) does not have any Liability for the Taxes of any Person, as a transferee or successor, by contract, or otherwise;

(h) The Company has not received a written claim by a taxing authority in a jurisdiction where the Company does not file Tax Returns that the Company is or may be subject to taxation by such jurisdiction, which would be covered by such Tax Returns;

(i) The Company is not currently the beneficiary of any extension of time within which to file any Tax Return;

(j) The Company has never had (i) a permanent establishment in a foreign country, as defined in the relevant Tax treaty between the United States and such foreign country, or (ii) business activities, operations or other presence in a foreign country that may reasonably be expected to cause it to be subject to Income Tax in such country;

(k) The Company is, and at all times since its formation has been, classified as a partnership within the meaning of Treasury Regulation Section 301.7701-3(b)(1)(i) for federal and all applicable state and local Income Tax purposes;

(l) There are no Encumbrances for Taxes upon any Assets of the Company, other than for current Taxes not yet due and payable;

(m) The Company has properly (i) collected and remitted sales, use, value added and similar Taxes with respect to sales made to its customers or services provided to its customers and (ii) for all sales or services that are exempt from sales, use, value added and similar Taxes and that were made without charging or remitting such Taxes, received and retained any appropriate Tax exemption certificates and other documentation qualifying such sale or service as exempt;

(n) The Company (i) does not have any Deferred Payroll Taxes, and (ii) has not utilized any payroll Tax credits pursuant to any provision of the CARES Act or other similar provision of applicable Law;

(o) The Company is in compliance with all terms and conditions of any Tax exemption, Tax holiday or other Tax reduction agreement, approval or order of any taxing authority ("Tax Incentive"), and the consummation of the transactions contemplated by this Agreement will not materially affect the validity or effectiveness of any such Tax Incentive or otherwise result in the termination or recapture of any amount or benefit received pursuant to such Tax Incentive; and

(p) None of the Company, Purchaser or Holdco will be required to include any item of income in, or exclude any item of deduction from, taxable income for any taxable period (or portion thereof) ending after the Closing Date as a result of any (i) “closing agreement” as described in Section 7121 of the Code (or any corresponding or similar provision of state, local or foreign Tax Law) executed on or prior to the Closing Date; (ii) installment sale or open transaction disposition made on or prior to the Closing Date; (iii) prepaid amount or advance payment received, or deferred revenue accrued, on or prior to the Closing Date; or (iv) change in method of accounting, or improper use of method of accounting for a taxable period ending on or prior to the Closing Date.

2.12 Contracts and Commitments.

(a) Except as set forth on Schedule 2.12, neither the Company nor any of its Subsidiaries are a party to or otherwise obligated under any of the following, whether written or oral:

(i) Any contract, agreement or purchase order providing for the sale of products or the provision of services, in any such case, by the Company and any of its Subsidiaries to any other Person;

(ii) Any single contract or purchase order providing for an expenditure by the Company and any of its Subsidiaries or any contracts or purchase orders with the same or affiliated vendor(s) providing for an expenditure by the Company and any of its Subsidiaries;

(iii) Any contract providing for an expenditure by the Company and any of its Subsidiaries for the purchase, lease or sale of any real property;

(iv) Any purchase commitment for materials, supplies or other items or services materially in excess of the normal, ordinary, usual and current requirements of the Company and any of its Subsidiaries;

(v) Any contract pursuant to which the Company or any of its Subsidiaries is the lessee or sublessee of, or holds or operates, any personal property owned or leased by any other Person or entity;

(vi) Any contract pursuant to which the Company or any of its Subsidiaries is the lessor or sublessor of, or permits any third-party to operate, any real or personal property owned or leased by the Company or any of its Subsidiaries or an officer, employee or equityholder of the Company, any of its Subsidiaries or any Affiliate thereof;

(vii) Any revocable or irrevocable power of attorney granted to any Person for any purpose whatsoever;

(viii) Any loan agreement, indenture, promissory note, conditional sales agreement, mortgage, security agreement, pledge, letter of credit arrangement, guarantee, endorsement, assumption, indemnity, surety, foreign exchange contract, commodity contract, interest rate or other derivative contract, accommodation or other similar type of contract or agreement, and in any event, including each instrument, contract or agreement evidencing or relating to Indebtedness;

(ix) Any arrangement or other agreement which involves (i) a sharing of profits, or (ii) any joint venture, partnership or similar contract or arrangement;

(x) Any contract providing for the payment of any Cash or other benefits upon the sale or change of control of the Company and any of its Subsidiaries;

(xi) any contract with (A) any Affiliate of the Company or any of its Subsidiaries, including Berner, or (B) any officer, director, employee, or equityholder of the Company, any of its Subsidiaries or any of its Affiliates, including Berner;

(xii) any contract with an employee, consultant, contractor or other non-employee service provider that (A) provides for annualized compensation, or (B) cannot be terminated by the Company at will without prior notice and without payment of severance or other penalty;

(xiii) any contract with a staffing company, employee leasing company or professional employer organization pursuant to which the employees of such company or organization provide services to the Company;

(xiv) any contract pursuant to which the Company or any of its Subsidiaries have entered into or agreed to enter into any factoring, hedging or similar transactions;

(xv) any contract relating to Intellectual Property by which the Company or any of its Subsidiaries (A) licensed to any Person any Company Intellectual Property or sublicensed to any Person any Intellectual Property owned by another Person, (B) is licensed under any Intellectual Property owned by another Person; (C) settled any dispute or released or was released from any claim pertaining to any Intellectual Property, or granted or was the beneficiary of a covenant not to sue or other restrictive covenant or agreement with respect to Intellectual Property; or (D) procured the development of any Intellectual Property;

(xvi) any non-competition, non-solicitation, or exclusive dealing agreement restricting the Company or any of its Subsidiaries or any other contract which purports to limit or restrict in any respect (A) the ability of the Company or any of its Subsidiaries to solicit customers or employees or (B) the manner in which, or the location in which, all or any portion of the business of the Company or any of its Subsidiaries, is or would be conducted;

(xvii) any contract that grants any right of first refusal, right of first offer, right of first negotiation, or similar right with respect to any material asset or business of the Company or any of its Subsidiaries or that limits or purports to limit the ability of the Company and any of its Subsidiaries to own or operate any material asset or business;

(xviii) any contract that contains a "most favored nation" clause or other term providing preferential pricing or treatment by the Company or any of its Subsidiaries in favor of a third-party;

(xix) any Material Contract or commitment not made in the ordinary course of business;

(xx) any sales agency, sales representation, dealer, consultant, distributorship or franchise agreement that by its terms is not terminable by the Company or any of its Subsidiaries without cost or penalty upon thirty (30) days' notice or less; or

(xxi) any other contract or commitment having a value, or requiring the payment any amount which is not cancelable without penalty on ninety (90) days' notice or less and which is not specifically described on any other Schedule to this Agreement.

(b) Each contract, agreement, instrument or document which requires the consent or approval of any third-party (i) for the consummation of the transactions contemplated hereby or (ii) to prevent a breach of or default under, a termination or modification of, or acceleration of the terms of, any contract, agreement or document, is set out on Schedule 2.12 and identified with an asterisk (*) thereon.

(c) All of the contracts, agreements, instruments and documents set forth or required to be set forth on Schedule 2.12 (each, a "Material Contract") are valid, binding and enforceable against the Company or any of its Subsidiaries and, to the Company's Knowledge, each other party thereto in accordance with their respective terms (except as such enforceability may be limited by Laws of general application relating to bankruptcy, insolvency and relief of debtors and general principles of equity). The Company is not in default under or in breach of, in each case, nor in receipt of any written claim of such default or breach, under any Material Contract. No event has occurred which with the passage of time or the giving of notice or both would result in a default, breach or event of noncompliance, in each such case, by the Company under any such Material Contract. To the Company's Knowledge there is no cancellation, anticipated or threatened cancellation, or any breach by the other parties to any Material Contract. The Company and its Subsidiaries have no present expectation or intention of not fully performing on a timely basis all such obligations required to be performed by the Company or its Subsidiaries under any such Material Contract. The Company has provided a true and complete copy of each of the written Material Contracts (or a representative form used in the ordinary course of business and copies of each Material Contract that materially deviates from such form) and an accurate description of each of the oral Material Contracts.

2.13 Intellectual Property Rights.

(a) Schedule 2.13 contains a complete and accurate list of all Company Intellectual Property that is the subject of a registration or patent or a pending application therefor, including domain name registrations and social media accounts, and a general description of all material trade secrets and other material unregistered Intellectual Property included in Company Intellectual Property, including Software and material, unregistered Trademarks.

(b) The Company and its Subsidiaries (collectively or one or more of them) have good, valid, and legal title to, and are the sole and exclusive owners of all right, title, and interest in and to, the Company Intellectual Property, free of any Lien other than Permitted Encumbrances, and have valid and enforceable, unexpired written licenses to use, in the manner currently used by the Company and its Subsidiaries, pursuant to an agreement set forth on Schedule 2.12 (or not required to be set forth on that Schedule), all other Intellectual Property necessary for or used in the operation of their respective businesses as currently conducted. The Company and its Subsidiaries do not, in the conduct of their respective businesses as currently conducted, use or employ any Intellectual Property conceived, developed or otherwise created by Berner or any of their current or former employees that is not Company Intellectual Property or use or employ any Intellectual Property created or owned by any of consultants or other independent contractors engaged by any of them that is not Company Intellectual Property or Intellectual Property licensed to the Company and its Subsidiaries under a valid, binding, written agreement. All current and former officers and employees of the Company and its Subsidiaries and all independent contractors and consultants of the Company and its Subsidiaries that have created any Intellectual Property used or held for use or exploitation by the Company or its Subsidiaries have assigned or are under a legal obligation to assign ownership of such Intellectual Property to the Company or a Subsidiary, or in the case of independent consultants and contractors, have, with respect to any such Intellectual Property that is Company

Intellectual Property, assigned ownership of all right, title, and interest in and to such Intellectual Property to the Company or a Subsidiary, or, with respect to any other such Intellectual Property, granted the Company and its Subsidiaries, a license to use such Intellectual Property in the manner in which such Intellectual Property is current used by the Company and its Subsidiaries in the conduct of their businesses.

(c) The Company and its Subsidiaries take commercially reasonable actions to maintain and protect the Company Intellectual Property, including to protect Confidential Information and trade secrets of the Company and its Subsidiaries or of others that has been provided to the Company or its Subsidiaries in confidence. To Company's Knowledge, there is not and has not been any unauthorized use or disclosure, infringement, misappropriation, or other violation of any Company Intellectual Property by any Person.

(d) The Company Intellectual Property is subsisting, valid and enforceable and there have been no claims made against the Company challenging the validity, enforceability, use or ownership of any of the same. The conduct of the Company's or its Subsidiaries' businesses does not infringe, dilute, misappropriate or otherwise violate, nor has the conduct of such businesses during the five (5) year period immediately preceding the Closing Date infringed, diluted, misappropriated or otherwise violated, any third-party Intellectual Property. Neither the Company nor any of its Subsidiaries has received any notice or claim (including any unsolicited offer to license or the like) related to the foregoing, asserted any similar claim against any Person or received (or requested) any opinions of counsel related to the foregoing.

(e) The transactions contemplated by this Agreement and the other Transaction Documents will have no adverse effect on the Company's right, title or interest in and to the Company Intellectual Property or any other Intellectual Property currently used by the Company or its Subsidiaries in the conduct of their businesses, and all of such Company Intellectual Property shall be owned or available for use by the Company or its Subsidiaries immediately after the Closing on terms and conditions identical to those on which it was available immediately prior to the Closing.

(f) All computers and other information technology infrastructure and systems used by or on behalf of the Company or its Subsidiaries in the conduct of their respective businesses (collectively, "Information Systems") are adequate for the operation of such businesses. All Software Licenses used by the Business that are licensed by another Person on behalf of the Business will be transferred to being directly licensed by the Business at or prior to the Effective Time. The Company and its Subsidiaries have operational business continuity plans in place for all Information Systems that address the possibility of future significant business disruptions. The Company and its Subsidiaries have taken steps and implemented procedures to ensure compliance with licenses for Software included in the Information Systems and that Information Systems do not include contaminants, and to mitigate risks that the Information Systems will be used or accessed by persons other than employees, contractors or other authorized personnel of the Company or a Subsidiary or other than in a manner in which such personnel are authorized to use or access the Information Systems. During the five (5) year period immediately preceding the date of this Agreement, there has not been any material malfunction of any Information Systems that has not been remedied or replaced, or any material unplanned downtime or service interruption of the Information Systems.

(g) The Company maintains policies and procedures regarding data security and privacy that are commercially reasonable and, in any event, in compliance in all material respects with all applicable Law. There has been no security breach relating to, violation of any security policy regarding, or unauthorized access or unauthorized use of, any data in the possession, custody, or control of the Company that contains the personally identifiable information of natural persons. The use and dissemination of any and all data and information concerning individuals by the Company and its Subsidiaries is in compliance in all material respects with all applicable privacy policies, privacy notices, terms of use, customer agreements, and Law. The consummation of the transactions contemplated hereby will not violate any privacy policy, privacy notice, terms of use, customer agreements, or Law relating to the use, dissemination, or transfer of any such data or information as of the Closing.

2.14 Litigation. Except as set forth on the attached Schedule 2.14, there are no (and, within the five (5) year period immediately preceding the date hereof, there have not been any) actions, suits, proceedings (including administrative, self-regulatory organization or arbitration proceedings), orders or claims (a) pending or, to the Company's Knowledge, threatened against or materially affecting the Company or its Subsidiaries (or to the Company's Knowledge, pending or threatened against any of the officers, members, partners or managers of Company or its Subsidiaries with respect to their business activities on behalf of the Company), or pending or threatened by the Company against any Person, at Law or in equity, or (b) for which the Company has received written notice thereof, before or by any Governmental Entity (including any actions, suits, proceedings or investigations with respect to the transactions contemplated by this Agreement); and the Company is not subject to any arbitration proceedings or, to the Company's Knowledge, any on-going governmental or regulatory investigations or inquiries. Neither the Company nor any of its Subsidiaries is subject to any judgment, order or decree of any court or other Governmental Entity, and neither the Company nor any of its Subsidiaries have received any written opinion or memorandum from legal counsel or compliance personnel to the effect that the Company or its Subsidiaries are exposed, from a legal standpoint, to any Liability which may be (individually or in the aggregate) material to its business.

2.15 Brokerage. Except as set forth on Schedule 2.15, the Company shall not have any Liability or obligation to pay any brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement to which the Company or Berner is a party.

2.16 Insurance. Schedule 2.16 contains a brief description of each insurance policy maintained by the Company with respect to the properties, Assets and business, or managers and officers of the Company, and each such policy is in full force and effect. The Company has not received notice of any breach or default with respect to any such policy. Neither the Company nor any of its Subsidiaries have any self-insurance or co-insurance or retro-active premium programs.

2.17 Employees.

(a) Schedule 2.17(a) accurately sets forth, for each employee of the Company (whether employed directly or through a staffing company, employee leasing company or professional employer organization), including any employee who is on a leave of absence or layoff status, and each individual engaged directly as a consultant, contractor or other non-employee service provider: (i) name and job title; (ii) date of employment or engagement; (iii) classification of each employee as exempt or nonexempt under the Fair Labor Standards Act and analogous state or local Law; (iv) current annual salary rate or hourly pay rate; (v) the number of hours of sick-time currently accrued; (vi) the number of hours of vacation time or paid time off currently accrued; (vii) whether on leave or layoff status and expected date of return, and (viii) terms of engagement of each non-employee service provider.

(b) Except as provided on Schedule 2.17(b), the Company is not party to or bound by any contract with a service provider which is not terminable at-will by the Company without prior notice and without payment of severance or other penalty. The Company has made available to Purchaser accurate and complete copies of (i) all contracts with all employees and non-employee service providers and (ii) all employee manuals, employee handbooks and personnel policies of the Company.

(c) The Company is not now, and never has been, party to or bound by any collective bargaining agreement or other contract, or any duty to bargain, with a labor union, works council or other labor organization, or party to any representation proceeding before the National Labor Relations Board, and there is not now, and never has been, any labor organizing activity pending or, to the Company's Knowledge, threatened with respect to the Company.

(d) There is not now, and has not been in the past twelve (12) months, any strike, slowdown, work stoppage, lockout or picketing involving the Company.

(e) The Company has at all times in the past five (5) years complied with all applicable Laws regarding labor and employment matters, including but not limited to the National Labor Relations Act, the Family and Medical Leave Act, the Occupational Safety and Health Act, Laws regarding employment discrimination, harassment and retaliation, wage and hour Laws, and wage payment Laws. Each individual who has provided services to the Company as an independent contractor at any time in the past five (5) years has, at all such times, been properly so classified by the Company. Each individual who has provided services to the Company as an "exempt" employee under the Fair Labor Standards Act or analogous state or local Laws at any time in the past five (5) years has, at all such times, been properly so classified by the Company.

(f) To the Company's Knowledge, there is not currently pending against the Company any charge, complaint or petition filed by or with any Governmental Entity alleging unfair labor practices, discrimination, harassment, retaliation, or other violation of Laws regarding labor or employment matters.

(g) The Company has at all times complied with the requirements of all applicable Laws regarding immigration, including but not limited to the requirements under the federal Immigration Reform and Control Act of 1986. The Company has on file a valid and current I-9 form for all current and former employees to the extent required by federal Law.

(h) The Company has not, in the past three (3) years, experienced a "mass layoff" or "plant closing" as defined in the federal Worker Adjustment and Retraining Notification Act or similar event under analogous state Law.

(i) To the Company's Knowledge, no employee or non-employee service provider: (i) intends to terminate his/her employment or engagement with the Company, (ii) has received an offer to join a business that may be competitive with the business of the Company, or (iii) is bound by any confidentiality agreement, noncompetition agreement or other contract (with any Person) that may reasonably be expected to interfere with the performance by such individual of his or her duties or responsibilities to the Company.

2.18 Employee Benefit Matters.

(a) Schedule 2.18(a) sets forth a true, correct and complete list of all Employee Benefit Plans. To the extent applicable with respect to each Employee Benefit Plan, true, correct and complete copies of the most recent documents described below have been delivered to Purchaser: (i) all plan documents and amendments thereto (or, in the case of unwritten plans, a written description thereof) and any written policies and/or procedures used in plan administration; (ii) current summary plan descriptions and any summaries of material modifications; (iii) IRS determination letter and any outstanding request for a determination letter; (iv) Form 5500 for the three most recent plan years, including without limitation all schedules thereto, all financial statements with attached opinions of independent accountants, and all actuarial reports; (v) in the case of an Employee Benefit Plan that is a "group health plan" as defined in Code Section 5000(b)(1), general notification to employees of their rights under Code Section 4980B, form

of letters distributed upon the occurrence of a qualifying event described in Code Section 4980B, HIPAA policies and procedures and HIPAA notice of privacy practices; (vi) administrative service agreements, HIPAA business associate agreements, related trust agreements, annuity contracts and other funding instruments, (vii) any nondiscrimination, coverage, top-heavy and Code 415 testing performed with respect to the three (3) most recently completed plan years; and (viii) all material written correspondence with any Governmental Entity.

(b) Each Employee Benefit Plan and related trust agreement, annuity contract or other funding instrument has been established, administered, operated, and maintained in compliance with its terms, ERISA, the Code and any other applicable Laws. To Company's Knowledge, the Company has no direct or indirect material Liability under the requirements provided by any and all statutes, orders or governmental rules or regulations, including but not limited to ERISA, COBRA, and the Code. With respect to each Employee Benefit Plan, no prohibited transactions (as defined in ERISA Section 406 or Code Section 4975) for which an applicable statutory or administrative exemption does not exist have occurred and no breaches of any of the duties imposed on Employee Benefit Plan fiduciaries by ERISA with respect to the Employee Benefit Plans have occurred that could result in any material Liability or excise Tax under ERISA or the Code being imposed on the Company. Each Employee Benefit Plan may be amended or terminated by the Company or Purchaser on or at any time after the Closing Date without Liability to the Company or Purchaser. None of the rights of the Company under an Employee Benefit Plan will be impaired by the consummation of the transactions contemplated by this Agreement.

(c) Each Employee Benefit Plan that is intended to be qualified under Section 401(a) of the Code is so qualified and has received a favorable determination letter from the IRS, or with respect to a prototype or volume submitter plan, can rely on an opinion or advisory letter from the IRS to the prototype or volume submitter plan sponsor, to the effect that such plan is so qualified and that the plan and the trust related thereto are exempt from federal income Taxes under Sections 401(a) and 501(a), respectively, of the Code. To the Company's Knowledge, nothing has occurred that would reasonably be expected to adversely impact the qualified status of any such Employee Benefit Plan or the exemption of any related trust. With respect to each Employee Benefit Plan intended to be qualified under Section 401(a) of the Code, (i) Schedule 2.18(c) sets forth a complete list of each outstanding loan owed by a participant in such Employee Benefit Plan in respect of his or her account thereunder, (ii) no capital stock or other equity interests of the Company is held as an asset in any such Employee Benefit Plan and (iii) the Company has not committed to make with respect to the current plan year, or has with respect to the immediately preceding plan year made, a matching or voluntary employer contribution under the terms of such Employee Benefit Plan.

(d) There is no pending or, to Company's Knowledge, threatened legal action, proceeding or investigation, suit, grievance, arbitration or other manner of litigation, or claim against or involving any Employee Benefit Plan and no facts exist that would give rise to any legal action, proceeding or investigation, suit, grievance, arbitration or other manner of litigation, or claim, other than routine claims for benefits and domestic relations order proceedings. No Employee Benefit Plan is, or was during the last three (3) years, the subject of an audit or other inquiry from the IRS, U.S. Department of Labor, PBGC or other Governmental Entity, nor is any Employee Benefit Plan the subject of an active filing under any voluntary compliance, amnesty, closing agreement or other similar program sponsored by any Governmental Entity, and no completed audit, compliance filing or closing agreement has resulted in the imposition of any material Tax, interest or penalty that has not been satisfied. Neither the Company nor any of its directors, officers, employees or any plan fiduciary has any Liability for failure to comply with ERISA, COBRA or the Code for any action or failure to act in connection with the administration or investment of any Employee Benefit Plan.

(e) All contributions to the Employee Benefit Plans have been made on a timely basis in accordance with ERISA and the Code. All insurance premiums (including premiums to the PBGC) have been paid in full, subject only to normal retrospective adjustments in the ordinary course, with regard to the Employee Benefit Plans for policy years or other applicable policy periods ending on or before the Closing Date.

(f) Neither the Company nor any ERISA Affiliate has ever maintained, contributed to, participated in, sponsored or otherwise had any Liability with respect to (i) a multiemployer plan as defined in Section 3(37) of ERISA, (ii) an employee benefit plan subject to Title IV or Section 302 of ERISA or Sections 412 or 4971 of the Code, (iii) a “multiple employer plan” within the meaning of Sections 201, 4063 or 4064 of ERISA or Section 413(c) of the Code, (iv) a “multiple employer welfare arrangement” within the meaning of Section 3(40) of ERISA, (v) a voluntary employees’ beneficiary association within the meaning of Section 501(c)(9) of the Code or (vi) a self-funded or self-insured health plan.

(g) No Employee Benefit Plan provides life, health or other welfare benefits to former or retired employees of the Company or any Subsidiary, and neither the Company nor any of its Subsidiaries has any Liability or obligation to provide life, medical or other welfare benefits to former or retired employees, other than pursuant to COBRA or similar state Laws which require limited continuation of coverage for such benefits. No Employee Benefit Plan provides benefits to any individual who is not a current or former employee of the Company, or a dependent or beneficiary of any such current or former employee. Each individual who is classified by the Company as an independent contractor has been properly classified for purposes of participation and benefit accrual under each Employee Benefit Plan.

(h) Each Employee Benefit Plan which is a “nonqualified deferred compensation” plan within the meaning of Section 409A of the Code has been operated and administered in compliance with Section 409A of the Code, and has been in material documentary compliance with Section 409A of the Code. No award (and no agreement or promise by the Company to make an award) under any Employee Benefit Plan that provides for the granting of equity, equity-based rights, equity derivatives or options to purchase equity has been backdated or has been granted with a purchase price that is less than the fair market value of such equity as of the applicable grant date. Neither the Company nor any of its Subsidiaries has any (i) Liability for withholding Taxes or penalties due under Code Section 409A or (ii) obligation to indemnify or gross-up for any Taxes imposed under Code Sections 409A or 4999.

(i) The Company, its Subsidiaries and each Employee Benefit Plan are in compliance with the ACA, including compliance with all filing and reporting requirements, all waiting periods and the offering of affordable health insurance coverage compliant with the ACA to all employees and contractors who meet the definition of a full-time employee under the ACA. The Company and its Subsidiaries are not otherwise liable or responsible for any assessable payment, Taxes, or other penalties under Section 4980H of the Code or otherwise under the ACA or in connection with requirements relating thereto.

(j) Neither the execution and delivery of this Agreement nor the consummation of the transactions contemplated hereby could (whether alone or in connection with any event or events, including termination of service) (i) entitle any current or former service provider of the Company to any compensation or benefits due under any plan, program, agreement or arrangement, (ii) accelerate the time at which any compensation, benefits or award may become payable, vested or required to be funded in respect of any current or former service provider of the Company, (iii) require any contributions or payments to fund any obligations under any Employee Benefit Plan or (iv) result in the payment of an “excess parachute payment” within the meaning of Section 280G of the Code.

(k) No Employee Benefit Plan or other benefit arrangement covers any employee or former employee outside of the United States, and neither the Company nor its Subsidiaries has ever been obligated to contribute to any such plan.

2.19 Compliance with Laws; Regulatory Matters; Licenses.

(a) To Company's Knowledge, except as set forth on the attached Schedule 2.19(a), the Company and its Subsidiaries are, and during the five (5) year period immediately preceding the Closing Date, and have been in compliance in all material respects with all applicable Laws. Since January 1, 2013, no notices have been received by and no claims have been filed or, to the Company's Knowledge, threatened against the Company or any Subsidiary alleging a violation of any such Laws. Neither Berner, the Company nor any of its Subsidiaries have at any time made or received any unlawful bribes, kickback payments, unlawful compensation payments or other similar unlawful payments of cash or other consideration to any Person, including unlawful or unethical payments to or by any business relations for purposes of doing business with such Persons.

(b) The Company, its Subsidiaries and their respective employees hold and are in material compliance with all Licenses of or from Governmental Entities required for the conduct of the businesses of the Company and its Subsidiaries as presently conducted (and, to the Company's Knowledge, no condition exists that with notice or lapse of time or both would constitute a default or violation under any License) and the ownership of its Assets and properties. Schedule 2.19(b) sets forth a list of all Licenses which are material to the Company's business. No written notices have been received by the Company or its Subsidiaries alleging the failure to hold any of the foregoing. All of such Licenses will be available for use by the Company or its Subsidiaries (or an employee) immediately after the Closing.

2.20 Affiliated Transactions. Except as set forth on Schedule 2.20, no officer, manager, member, partner or Affiliate of the Company or its Subsidiaries or, to the Company's Knowledge, any spouse or any member of the immediate family of any officer, manager or member of the Company or any entity in which any such Person or individual owns more than a five percent (5%) beneficial interest, is a party to any agreement, contract, commitment or transaction with the Company or its Subsidiaries, or has any interest in any property used by the Company and any of its Subsidiaries (including any Intellectual Property), or has an employment or consulting (or similar) relationship with the Company or any of its Subsidiaries.

2.21 Real Property. Neither the Company nor any of its Subsidiaries own any real property or any interest in real property (other than the leasehold interest set forth on Schedule 2.21 attached hereto). Schedule 2.21 attached hereto sets forth a list of all of the leases, subleases and licenses ("Leases") or other agreements for the use or occupancy of real property (the "Leased Real Property") in which the Company or any Subsidiary has a leasehold, subleasehold or licensed interest. Except as set forth on the attached Schedule 2.21 with respect to each of the Leases: (i) the Lease is legal, valid, binding, and enforceable against the Company, and to the Company's Knowledge, each other party thereto, (ii) the Lease is in full force and effect; (iii) assuming receipt of the required consents with respect to those Leases noted on Schedule 2.12, the transactions contemplated hereunder will not result in a breach of or default under the Lease or otherwise cause the Lease to cease to be enforceable and in full force and effect on identical terms following the Closing; (iv) neither the Company, any Subsidiary, nor, to the Company's Knowledge, any other party to the Lease, is in breach or default under the Lease, and, to the Company's Knowledge, no event has occurred or circumstance exists which, with the delivery of notice, passage of time or both, would constitute such a breach or default or permit the termination, modification or acceleration of rent under the Lease; and (v) neither the Company nor any of its Subsidiaries has assigned, subleased, mortgaged, deeded in trust or otherwise transferred or encumbered the Lease or any interest therein. Except for the Leased Real Property, there is no real property which is leased or otherwise used in the Company's or any Subsidiary's business.

2.22 Environmental, Health and Safety Requirements. The Company and its Subsidiaries are and, during the five (5) year period immediately preceding the Closing Date, have been in compliance in all material respects with all Environmental Laws, which compliance includes obtaining, maintaining and complying in all material respects with all permits required by such Environmental Laws to operate their businesses as currently operated. There are no claims or proceedings pending or, to the Company's Knowledge, threatened against the Company alleging the violation of or Liability under any Environmental Laws. The Company and its Subsidiaries do not have any material Liabilities pursuant to any Environmental Laws. There has been no release of Hazardous Materials in violation of any Environmental Law with respect to the Company or any Leased Real Property. The Company and the Subsidiaries have not received a request for information under any Environmental Law. The Company and the Subsidiaries have not agreed to indemnify any Person or party, including a predecessor, buyer, seller, landlord, or tenant, with respect to any Liabilities pursuant to any Environmental Law. The Company has provided to Purchaser true and accurate copies of all safety and environmental reports and investigations of the current operations and operations within the preceding ten (10) years, including those relating to the Leased Real Property.

2.23 Accounts Receivable; Inventory.

(a) Set forth on Schedule 2.23(a) is a true and complete list of all accounts receivable of the Company as of the dates indicated thereon (together with any other accounts receivable of the Company arising during the period from such date to the Closing Date, the "Accounts Receivable"). Each Account Receivable (i) is properly included in the Financial Statements in accordance with GAAP and is valued for purposes of the Financial Statements in accordance with GAAP; (ii) represents actual amounts incurred by the applicable account debtor; (iii) represents a sale made in the ordinary course and which arose pursuant to an enforceable written contract for a bona fide sale of goods or services performed, and the Company has performed in all material respects all of the obligations to produce and deliver the goods or perform the services to which such Account Receivable relates; and (iv) is current and collectible (subject to the bad debt reserve set forth on the Closing Statement (as determined in accordance with Section 1.3)). No agreement for deduction, free goods, discount, or other deferred price or quantity adjustment has been made with respect to any Account Receivable. Except for the allowance for doubtful accounts and customary industry allowances for returns and discounts that are recorded on the Latest Balance Sheet, no Account Receivable is subject to any counterclaim, set-off, defense, security interest, claim, or other Encumbrance other than Permitted Encumbrances.

(b) All inventories held by the Company or its Subsidiaries at any location are valued on the Financial Statements at the lower of cost (cost being determined by the first-in, first-out (FIFO) method) or market (market being determined in accordance with GAAP). Except as set forth on Schedule 2.23(b), such inventories consist of a quantity and quality usable and salable in the ordinary course, and are not physically damaged, previously used, obsolete, discontinued or excess inventory.

2.24 Product and Service Warranties.

(a) Set forth in Schedule 2.24(a) are the standard forms of product and service warranties and guarantees used by the Company and its Subsidiaries. No product or service warranties or guaranties have been orally authorized or made except as set forth in Schedule 2.24(a).

(b) Except as set forth in Schedule 2.24(b), in the last three (3) years, no product or service warranty or similar claims have been made against the Company or any Subsidiary and, to the Company's Knowledge, neither the Company nor any of its Subsidiaries has any material Liability in excess of the reserve therefor on the Latest Balance Sheet for any such claim.

2.25 Customers and Suppliers. Schedule 2.25 sets forth a true, complete, and correct list, by company, of the ten (10) largest customers of the Company and the ten (10) largest suppliers (including subcontractors to the Company under any contracts) of the Company by volume of sales and purchases, respectively (by dollar volume) for the twelve (12)-month period ending at the end of the calendar month immediately prior to the execution of this Agreement. The Company has not received any written notice from any supplier to the effect that, and, to the Company's Knowledge, has no reason to believe that, any such supplier will stop or decrease in any material respect, or plans to stop or decrease in any material respect, the rate of supplying materials, products, or services to the Company. The Company has not received any written notice from any customer to the effect that, and, to the Company's Knowledge, has no reason to believe that, such customer will stop or decrease in any material respect, or plans to stop or decrease in any material respect, the rate of buying materials, services, or products from the Company. The Company is not involved in any dispute with any customer or supplier.

2.26 NO OTHER REPRESENTATIONS. THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION II AND IN SECTION III (EACH AS MODIFIED BY THE SCHEDULES) ARE THE ONLY REPRESENTATIONS AND WARRANTIES MADE BY THE COMPANY AND BERNER AND ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY EXPRESSLY DISCLAIMED; PROVIDED, HOWEVER, THE FOREGOING SHALL NOT BE DEEMED TO RELEASE ANY PERSON FROM (OR OTHERWISE MITIGATE) ANY LIABILITY FOR (A) FRAUD (AS SUCH TERM IS DEFINED IN SECTION V) OR (B) ANY BREACH OF REPRESENTATIONS OR WARRANTIES MADE BY SUCH PERSON IN THIS AGREEMENT.

SECTION III REPRESENTATIONS AND WARRANTIES OF BERNER

As a material inducement to Purchaser to enter into this Agreement and consummate the transactions contemplated hereby, Berner hereby represents and warrants to Purchaser as follows:

3.1 Power and Authority. Berner possesses all requisite power and authority necessary to enter into and carry out the transactions contemplated by this Agreement.

3.2 Enforceability. This Agreement and each other Transaction Document to which Berner is a party have been validly executed and delivered and, when executed and delivered by Purchaser in accordance with the terms hereof and thereof, shall each constitute a valid and binding obligation of Berner, enforceable against Berner in accordance with its terms.

3.3 Noncontravention. The execution and delivery by Berner of the Transaction Documents to which Berner is a party and all other agreements contemplated hereby and thereby to which Berner is a party, and the fulfillment of and compliance with the respective terms hereof and thereof by Berner, do not (i) create a Lien or Encumbrance on the Berner Interest or (ii) result in a violation of, any Law, order, judgment or decree to which Berner is subject.

3.4 Ownership of Berner Interest. Berner owns beneficially and of record the number of membership interests of the Company as are set forth next to Berner's name on Schedule 2.2(a), free and clear of all Encumbrances. Except for the Berner Interest (and Berner's indirect membership interest in the Company as the sole owner of Rabern Corp), Berner does not own any other Equity Interest or any other security of the Company, or any option, warrant, right, call, commitment or rights of any kind to have any such security issued.

3.5 Brokerage. There are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement to which Berner is a party or to which Berner is subject.

3.6 Litigation. There are no actions, suits, proceedings, orders, investigations or claims pending or, to Berner's knowledge, threatened against Berner in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with the transactions contemplated hereby.

3.7 NO OTHER REPRESENTATIONS. THE REPRESENTATIONS AND WARRANTIES EXPRESSLY SET FORTH IN THIS SECTION III (AS MODIFIED BY THE SCHEDULES) ARE THE ONLY REPRESENTATIONS AND WARRANTIES MADE BY BERNER AND ALL OTHER REPRESENTATIONS AND WARRANTIES, WHETHER ORAL OR WRITTEN, EXPRESS OR IMPLIED (INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE) ARE HEREBY EXPRESSLY DISCLAIMED; PROVIDED, HOWEVER, THE FOREGOING SHALL NOT BE DEEMED TO RELEASE ANY PERSON FROM (OR OTHERWISE MITIGATE) ANY LIABILITY FOR (A) FRAUD (AS SUCH TERM IS DEFINED IN SECTION V) OR (B) ANY BREACH OF REPRESENTATIONS OR WARRANTIES MADE BY SUCH PERSON IN THIS AGREEMENT.

SECTION IV REPRESENTATIONS AND WARRANTIES OF PURCHASER

As a material inducement to the Company and Berner to enter into this Agreement and consummate the transactions contemplated hereby, Purchaser hereby represents and warrants to the Company and Berner as follows:

4.1 Organization, Power and Authority. Purchaser is duly organized, validly existing and in good standing under the Laws of its jurisdiction of organization. Purchaser possesses all requisite power and authority necessary to enter into and carry out the transactions contemplated by this Agreement.

4.2 Authorization. The execution, delivery and performance of the Transaction Documents to which Purchaser is a party and all of the other agreements contemplated hereby and thereby to which Purchaser is a party and the consummation of the transactions contemplated hereby and thereby have been duly authorized by Purchaser. The Transaction Documents and all other agreements contemplated hereby and thereby to which Purchaser is a party, when executed and delivered by Purchaser in accordance with the terms hereof and thereof, shall each constitute a valid and binding obligation of Purchaser, enforceable in accordance with its terms.

4.3 Noncontravention. The execution and delivery by Purchaser of the Transaction Documents to which Purchaser is a party and all other agreements contemplated hereby and thereby to which Purchaser is a party, the purchase of the Berner Interest hereunder, and the fulfillment of and compliance with the respective terms hereof and thereof by Purchaser, do not and shall not (a) conflict with or result in a breach of the terms, conditions or provisions of, or result in a violation of, the Governing Documents of Purchaser, or (b) result in a violation of, any Law, order, judgment or decree to which Purchaser is subject.

4.4 Brokerage. Other than the fee payable by Purchaser to C2 Advisory Group LLC in connection with the closing of the transactions contemplated by this Agreement, there are no claims for brokerage commissions, finders' fees or similar compensation in connection with the transactions contemplated by this Agreement based on any arrangement or agreement to which Purchaser is a party or to which Purchaser is subject.

4.5 Litigation. There are no actions, suits, proceedings, orders, investigations or claims pending or, to Purchaser's knowledge, threatened against Purchaser in which it is sought to restrain or prohibit or to obtain damages or other relief in connection with the transactions contemplated hereby.

4.6 Independent Investigation; No Reliance. In connection with its investment decision, Purchaser or its representatives have inspected and conducted such independent review, investigation and analysis (financial and otherwise) of the Company and the Subsidiaries as desired by Purchaser. In purchasing the Berner Interest, entering into this Agreement and consummating the transactions contemplated hereby, and assuming and relying upon there having been no Fraud in connection with the transactions contemplated by this Agreement, Purchaser acknowledges that it is relying upon its own investigation and the representations and warranties expressly set forth in Section II and Section III (in each case, as modified by the Schedules) and it is not relying upon any other representation or warranty by, or information from, the Company or Berner or any of their respective Affiliates, employees or representatives, whether oral or written, express or implied, including any implied warranty of merchantability or of fitness for a particular purpose, and Purchaser acknowledges that the Company and Berner expressly disclaim any other representations and warranties. Except for the representations and warranties expressly set forth in Section II and Section III (in each case, as modified by the Schedules) and assuming and relying upon there having been no Fraud in connection with the transactions contemplated by this Agreement, Purchaser acknowledges that neither the Company nor Berner have made any representations or warranties to Purchaser regarding the probable future success or future profitability of the Company and its Subsidiaries or their respective businesses.

SECTION V DEFINITIONS

For the purposes of this Agreement, the following terms have the meanings set forth below:

“ACA” means the Patient Protection and Affordable Care Act of 2010, as amended, and regulations promulgated thereunder.

“Accountant” has the meaning set forth in Section 1.3(b).

“Accounting Principles” has the meaning set forth in Section 1.3(a).

“Accounts Receivable” has the meaning set forth in Section 2.23(a).

“Adjustment Amount” means the amount equal to the sum of (i) the Final Indebtedness Amount *minus* the Target Indebtedness Amount, *plus* (ii) the Target Net Working Capital *minus* the Final Net Working Capital.

“Adjustment Escrow Amount” means \$1,000,000.

“Affiliate” of any particular Person means any other Person controlling, controlled by or under common control with such particular Person, where “control” means the possession, directly or indirectly, of the power to direct the management and policies of a Person whether through the ownership of voting securities, by contract or otherwise, and such “control” will be presumed if any Person owns a majority or more of the voting capital stock or other Equity Interests, directly or indirectly, of any other Person.

“Agreement” has the meaning set forth in the Preamble.

“Berner Indemnified Persons” has the meaning set forth in Section 7.3.

“CARES Act” means the Coronavirus Aid, Relief, and Economic Security Act, as amended, together with the regulations and guidance related thereto, in each case as amended from time to time.

“Cash” means cash and cash equivalents, calculated in accordance with GAAP, excluding cash and cash equivalents that are subject to restrictions on use or withdrawal. For the avoidance of doubt, Cash will include checks, wire transfers and drafts deposited or available for deposit for the account of the Company.

“Closing Net Working Capital” has the meaning set forth in Section 1.3(a).

“Closing Payment” means (i) \$25,900,000, *minus* (ii) the Escrow Amount.

“Closing Statement” has the meaning set forth in Section 1.3(a).

“COBRA” means the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended.

“Code” means the Internal Revenue Code of 1986, as amended.

“Company” has the meaning set forth in the Preamble.

“Company Intellectual Property” means all Intellectual Property that is owned, or purported to be owned, in whole or in part, by the Company or its Subsidiaries.

“Company’s Knowledge” means the actual knowledge, after reasonable inquiry (including of its ordinary financial and accounting advisors), of Berner and Clayton Cook.

“Confidential Information” means all information of a confidential or proprietary nature (whether or not specifically labeled or identified as “confidential”), in any form or medium, that relates to the Company, its Subsidiaries or their business relations and their respective business activities. Confidential Information includes, but is not limited to, the following: (i) internal business information (including historical and projected financial information and budgets and information relating to strategic and staffing plans and practices, business, training, marketing, promotional and sales plans and practices, cost, rate and pricing structures and accounting and business methods); (ii) information that identifies any individual requirements of, and specific contractual arrangements with, the Company’s customers, independent contractors, clearing agencies, joint venture partners and other business relations and their confidential information; (iii) trade secrets, know how, compilations of data and analyses, techniques, systems, formulae, algorithms, research, records, reports, manuals, documentation, models, data and data bases relating thereto; (iv) inventions, innovations, improvements, developments, methods, designs, analyses, drawings, reports and all similar or related information (whether or not patentable); and (v) other Intellectual Property.

“Defense Notice” has the meaning set forth in Section 7.5.

“Deferred Payroll Taxes” means the employer portion of any payroll Taxes for a Pre-Closing Tax Period in respect of which the Company has deferred the payment thereof until after the Closing Date pursuant to the CARES Act (or any similar provision of federal, state, local or non-U.S. Law), calculated without giving effect to any Tax credits afforded under the CARES Act or any similar Law to reduce the amount of any such Taxes payable or owed.

“Disagreement” has the meaning set forth in Section 1.3(b).

“Effective Time” means 11:59 p.m. Central Time on the date of this Agreement.

“Employee Benefit Plans” means (a) all “employee benefit plans” as defined in Section 3(3) of ERISA and (b) any other agreement, arrangement, plan, or policy, qualified or non-qualified, written or oral, funded or unfunded, that involves any (i) pension, retirement, profit sharing, savings, deferred compensation, bonus, stock option, simple retirement account (as described in Code Section 408(p)), stock purchase, phantom stock, incentive plan, or change-in-control benefits; (ii) welfare or “fringe” benefits, including vacation, holiday, severance, redundancy, disability, medical, hospitalization, dental, life and other insurance, tuition, company car, club dues, sick leave, maternity, paternity or family leave, health care reimbursement, dependent care assistance, cafeteria plan, regular in-kind gifts, or other benefits; or (iii) employment, consulting, engagement, retainer or golden parachute agreement or arrangement, in each case, which is or was sponsored, maintained or contributed to by the Company or any ERISA Affiliate or with respect to which the Company has or may have any current or future Liability, contingent or otherwise.

“Encumbrances” means, with respect to any Equity Interests, any Liens, agreements (other than the applicable Governing Documents), voting trusts, proxies and other arrangements or restrictions of any kind whatsoever, other than transfer restrictions imposed by applicable U.S. or state securities Laws or transfer restrictions set forth in the LLC Agreement, and any agreement to create any of the above.

“Environmental Law” means any Law in effect on or prior to the Closing in any way relating to the protection of human health and safety, the environment, Hazardous Materials, or natural resources including the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. § 9601 et seq.), the Hazardous Materials Transportation Act (49 U.S.C. § 1801 et seq.), the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.), the Clean Water Act (33 U.S.C. § 1251 et seq.), the Clean Air Act (42 U.S.C. § 7401 et seq.), the Toxic Substances Control Act (15 U.S.C. § 2601 et seq.), the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. § 136 et seq.) and the Occupational Safety and Health Act (29 U.S.C. § 651 et seq.), as each has been or may be amended and the regulations promulgated pursuant thereto and any comparable Law or the common Law, including trespass, nuisance or negligence.

“Equity Interests” means any membership interests, partnership interests, profits interests, capital stock or other equity securities or ownership interests, or securities exercisable or exchangeable for or convertible into, or other rights to acquire, membership interests, partnership interests, capital stock or other equity securities or ownership interests.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“ERISA Affiliate” means, with respect to any corporation or trade or business, any other corporation or trade or business that is, or was at the relevant time, a member of a group described in Section 414(b), (c), (m) or (o) of the Code or Section 4001(b)(1) of ERISA that includes or included the Company, or that is, or was at the relevant time, a member of the same “controlled group” as the Company pursuant to Section 4001(a)(14) of ERISA.

“Escrow Agent” means U.S. Bank National Association.

“Escrow Agreement” means the escrow agreement substantially in the form attached hereto as Exhibit B, between Purchaser, Berner and Escrow Agent.

“Existing Lender” means Amarillo National Bank, a national banking association.

“Existing Loan” means that certain loan (Loan Number: 7000028029) issued by the Existing Lender to LP, with an outstanding principal amount as of April 4, 2022 of \$15,265,839.62.

“Final Net Working Capital,” has the meaning set forth in Section 1.3(c).

“Fleet Escrow Amount” means \$2,500,000.

“Fraud” means actual and intentional fraud with respect to any representation, warranty, covenant or obligation set forth in this Agreement.

“GAAP” means United States generally accepted accounting principles as in effect from time to time.

“Governing Documents” means, with respect to any Person, its articles of organization, certificate of formation, certificate of organization, limited liability company agreement, limited partnership agreement, certificate of incorporation, bylaws, partnership agreement, or similar governing documents.

“Governmental Entity” means (i) any federal, state, province, local, municipal, tribal, foreign or other government; (ii) any governmental or quasi-governmental authority of any nature (including any governmental agency, branch, department, official, entity or regulatory organization and any court or other tribunal); (iii) anybody exercising, or entitled to exercise, any administrative, executive, judicial, legislative, police, regulatory, or taxing authority or power of any nature, including any arbitral tribunal; (iv) any agency, authority, board, bureau, commission, department, office or instrumentality of any nature whatsoever of any federal, state, province, local, municipal or foreign government or other political subdivision or otherwise, or any officer or official thereof with requisite authority; and (v) any self-regulatory body or securities or other exchange or clearing system.

“Hazardous Materials” means any (i) pollutants or contaminants, (ii) hazardous, toxic, carcinogenic, mutagenic, corrosive, dangerous, noxious, flammable, explosive, infectious or radioactive substances, chemicals, materials or wastes (including without limitation those defined, declared, regulated or controlled as hazardous under any Environmental Law), (iii) petroleum including crude oil or any derivative or fraction thereof, (iv) asbestos fibers, (v) solid or liquid wastes or (vi) polychlorinated bi-phenyls, polychlorinated bi-phenyl waste or polychlorinated bi-phenyl related wastes.

“HIPAA” means the Health Insurance Portability and Accountability Act of 1996, as amended.

“Income Tax” means Taxes based or imposed on or measured by gross or net income, profits or gross receipts (excluding, for the avoidance of doubt, any sales and use and similar Taxes), and franchise, capital gains and similar Taxes.

“Income Tax Return” means any Tax Return filed or required to be filed with respect to Income Taxes.

“Indebtedness” means, without duplication, as of the date of determination, all obligations (including all obligations in respect of principal, accrued interest, penalties, prepayment penalties, fees, indemnities, and premiums) of the Company (a) for borrowed money including outstanding borrowings from factoring or other similar arrangements, (b) evidenced by bonds, debentures, notes, or similar instruments, (c) arising from installment purchases of property or representing the deferred purchase price of property or services (including any potential future earn-out, purchase price adjustment, release of “holdback” or similar payment, but excluding trade accounts payable incurred in the ordinary course), (d) under leases of the Company that have been or should be recorded as capital leases in accordance with

GAAP, (e) all indebtedness of others secured by a Lien on property or Assets owned or acquired by the Company, whether or not the indebtedness secured thereby have been assumed, (f) under interest rate, currency, or commodity derivatives or hedging transactions or similar arrangement (valued at the termination value thereof), (g) in respect of letters of credit (to the extent amounts have been drawn thereunder), surety bonds, or bankers acceptances, (h) all guarantees of the Company of any indebtedness of any other Person other than the Company, (i) under any sale and lease back transaction, securities repurchase agreements, or other similar financing transaction, (j) all declared and/or accrued but unpaid dividends or distributions, (k) all deferred compensation and expense reimbursement obligations of the Company including (i) any underfunded pension or post-retirement liabilities, (ii) all payment obligations under any retiree medical or deferred compensation plans, and (iii) all payroll, bonus or other benefits (including applicable payroll Taxes) deferred or unpaid at the time such obligation was due and payable, (l) for all Unpaid Taxes, and (m) all accrued but unpaid employee bonuses and incentive compensation and the employer's share of employment Taxes with respect thereto.

“Indemnified Party” has the meaning set forth in Section 7.4.

“Indemnified Taxes” means any (i) Taxes of Berner, (ii) Taxes of, or payable by, the Company in respect of any Pre-Closing Tax Period, (iii) Taxes of any other Person for which the Company is liable pursuant to Treasury Regulation Section 1.1502-6 or any similar state, local or foreign Law, as a transferee or successor, by contract or pursuant to any Law, (iv) Taxes, other than any Transfer Taxes that Purchaser is responsible for pursuant to Section 6.3, resulting from the transactions contemplated by this Agreement, and (v) Taxes attributable to or resulting from any corrective measures taken pursuant to Section 6.8 or contemplated by Schedule 6.8, in each case, except to the extent such Taxes are taken into account in determining, and result in a reduction to, the final Purchase Price pursuant to Sections 1.3 and 1.4.

“Indemnifying Party” has the meaning set forth in Section 7.4.

“Indemnity Escrow Amount” means \$1,500,000.

“Intellectual Property” means any and all intellectual and proprietary rights and rights in confidential information of any kind throughout the world, including all (i) patents, patent applications, patent disclosures and inventions, (ii) trademarks, service marks, trade dress, trade names, logos and other indicia of source or origin (“Trademarks”) and registrations and applications for registration thereof (together with all of the goodwill associated therewith), (iii) copyrights (registered or unregistered) and copyrightable works and registrations and applications for registration thereof, (iv) mask works and registrations and applications for registration thereof, (v) computer software, data, databases and documentation thereof, (vi) trade secrets and other confidential information (including ideas, formulas, compositions, inventions (whether patentable or unpatentable and whether or not reduced to practice), know-how, manufacturing and production processes and techniques, research and development information, drawings, specifications, designs, plans, proposals, technical data, copyrightable works, financial and marketing plans and customer and supplier lists and information), and (vii) internet domain name registrations, social media accounts and social media handles with social media companies.

“Investment” as applied to any Person means (i) any direct or indirect purchase or other acquisition by such Person of any notes, obligations, instruments or Equity Interests (including joint venture interests) of any other Person and (ii) any capital contribution by such Person to any other Person.

“Latest Balance Sheet” has the meaning set forth in Section 2.6(a).

“Laws” means any federal, state, local, municipal, foreign or other statute, law, ordinance, regulation, rule, code, order, principle of common law or judgment enacted, promulgated, issued, enforced or entered by any Governmental Entity, or other requirement or rule (including pursuant to any settlement, consent decree or determination of or settlement with an arbitrator) of law (including laws related to securities and securities trading, commodities and commodities trading, foreign currency trading, investment advice, broker/dealer matters, the employment of labor, the licensing of employees and independent contractors under its applicable Licenses and environmental and safety requirements).

“Liability” or “Liabilities” means all debts, adverse claims, liabilities and/or obligations, direct, indirect, absolute or contingent, whether known or unknown, accrued, vested or otherwise and whether or not reflected or required to be reflected on the financial statements of a Person.

“Licenses” means all licenses, memberships, registrations, certifications, accreditations, permits, bonds, franchises, approvals, authorizations, consents or orders of, notifications to, or filings with, any Governmental Entity, whether foreign, federal, state or local, or any other Person, currently maintained or necessary for the Company to operate its business as presently conducted, in compliance with all applicable Laws.

“Lien” or “Liens” means any mortgage, pledge, security interest, encumbrance, lien or charge of any kind (including any conditional sale or other title retention agreement or lease in the nature thereof), any sale of receivables with recourse against the Company, any filing or agreement to file a financing statement as debtor under the Uniform Commercial Code or any similar statute (other than to reflect ownership by a third-party of property leased to the Company under a lease which is not in the nature of a conditional sale or title retention agreement), or any subordination arrangement in favor of another Person, or any agreement to create any of the above.

“Material Adverse Effect” means any event, circumstance, condition, development, occurrence, change or effect that (i) has or would reasonably be expected to have a material adverse effect on the business, Assets, liabilities (contingent or otherwise), earnings or results of operations, or the financial condition of the Company taken as a whole or (ii) prevents, materially adversely affects, materially delays, or is reasonably expected to materially adversely affect or delay, the ability of Berner or the Company to perform their obligations hereunder or under any other Transaction Document or to consummate the transactions contemplated hereby or thereby on a timely basis; *provided*, that, with respect to clause (i), “Material Adverse Effect” shall not be deemed to include any effect to the extent resulting from change, after the date hereof, in general economic conditions in the industry in which the Company operates, to the extent that such changes do not have a disproportionate effect on the Company compared to other similarly situated participants in the industry in which the Company operates.

“Net Working Capital” means the aggregate value of the current assets of the Company listed under the heading “current assets” on Schedule 1.3(a), reduced by the current liabilities of the Company listed under the heading “current liabilities” on Schedule 1.3(a), with all balances determined in accordance with the Accounting Principles.

“New Lease Agreements” means the lease agreements between the Company and the applicable landlord counterparty thereto that are attached as Exhibit C to this Agreement.

“Notice of Dispute” has the meaning set forth in Section 1.3(b).

“Permitted Encumbrances” means (i) statutory Encumbrances for current Taxes that are (a) not yet due and payable or (b) the amount or validity of which is being contested in good faith by appropriate proceedings by the Company, in each case, for which adequate reserves have been established on the Financial Statements in accordance with GAAP; (ii) mechanics’, carriers’, workers’, repairers’ and similar statutory Liens arising or incurred in the ordinary course of business for amounts which are not delinquent

and which are not, individually or in the aggregate, significant; (iii) zoning, entitlement, building and other land use regulations imposed by Governmental Entities having jurisdiction over the Leased Real Property which are not violated by the current use and operation of the Leased Real Property; and (iv) the Liens set forth on Schedule 2.10.

“Person” means a natural person, a partnership, a corporation, a limited liability company, an association, a joint stock company, a trust, a joint venture, an unincorporated organization and a Governmental Entity or any department, agency or political subdivision thereof.

“Pre-Closing Tax Period” means any taxable period ending on or before the Closing Date and, with respect to any Straddle Period, the portion of such Straddle Period ending on and including the Closing Date.

“Promissory Note” means that certain Promissory Note to be made by the Company in favor of Purchaser in the form attached hereto as Exhibit D.

“Purchase Price Allocation” has the meaning set forth in Section 6.7.

“Purchaser Indemnified Persons” has the meaning set forth in Section 7.2.

“Rental Fleet Acquisition Payment” means \$1,340,005.14.

“Schedules” means, collectively, the schedules hereto, and “Schedule” means any of the Schedules individually.

“Software” means all computer software, firmware, programs and databases, in any form, including without limitation, development tools, library functions, compilers, and platform and application software, whether in source code or object code format, and all documentation related thereto.

“Straddle Period” means any taxable period beginning on or prior to, and ending after, the Closing Date.

“Subsidiary” means, with respect to any Person, any corporation, limited liability company, partnership, association or other business entity of which (i) if a corporation, a majority of the total voting power of shares entitled (without regard to the occurrence of any contingency) to vote in the election of directors, managers or trustees thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more of the other Subsidiaries of that Person or a combination thereof, or (ii) if a limited liability company, partnership, association or other business entity, a majority of the partnership or other similar ownership interests thereof is at the time owned or controlled, directly or indirectly, by that Person or one or more Subsidiaries of that Person or a combination thereof. For purposes hereof, a Person or Persons shall be deemed to have a majority ownership interest in a limited liability company, partnership, association or other business entity if such Person or Persons shall be allocated a majority of the limited liability company, partnership, association or other business entity gains or losses or shall control any managing member or general partner of such limited liability company, partnership, association or other business entity.

“Supplemental Income Plan” means the Company’s non-qualified defined benefit plan known as the Supplemental Income Plan, which the Company originally adopted on June 15, 2012.

“Target Indebtedness Amount” means \$13,000,000.

“Target Net Working Capital” means \$5,051,153, which for the avoidance of doubt was calculated based on the following amounts for the Company: (i) cash: \$1,901,421, (ii) accounts receivable: \$2,734,653, (iii) inventory-merchandise: \$866,234, and (iv) accounts payable: \$(451,155).

“Tax” or “Taxes” means all taxes, charges, fees, levies, or other like assessments, including without limitation, all federal, possession, province, state, city, county, and foreign (or governmental unit, agency, or political subdivision of any of the foregoing), corporate, income, profits, license, withholding, payroll, employment (including Social Security, unemployment insurance, employer health and employee income tax withholding), franchise, gross receipts, sales, use, transfer, stamp, environmental, alternative minimum, occupation, property, net worth, capital gains, severance, premium, windfall profits, customs, duties, ad valorem, value added, excise, unclaimed property, escheat and any other governmental charges of the same or similar nature to any of the foregoing; including any interest, penalty, or addition thereto, whether disputed or not, and including any obligations to indemnify or otherwise assume or succeed to the Tax liability of any other Person, including by contract or otherwise.

“Tax Return” means any return, declaration, information statement, information report, estimate, election, claim for refund, statement of foreign bank and financial account or other return filed, or required to be filed, in connection with or relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Third Person” has the meaning set forth in Section 7.5.

“Third Person Claim” has the meaning set forth in Section 7.5.

“Transaction Documents” means this Agreement, the LLC Agreement, the Berner Employment Agreement, the Escrow Agreement, the Stockholders Agreement, and all other agreements, certificates and instruments contemplated hereby and thereby.

“Transfer Taxes” has the meaning set forth in Section 6.3.

“Treasury Regulations” means the United States Treasury Regulations promulgated under the Code.

“Unpaid Taxes” means all unpaid Taxes of, or payable by, the Company for any Pre-Closing Tax Period (including, for the avoidance of doubt, Taxes allocable to the portion of any Straddle Period ending as of the Closing Date (calculated pursuant to Section 6.2)), *provided* that Unpaid Taxes (x) shall not be an amount less than zero in any jurisdiction for any particular Tax, and (y) shall include any Deferred Payroll Taxes.

SECTION VI TAXES

6.1 Tax Treatment. Purchaser and Berner agree that, for U.S. federal Income Tax purposes (and any similar provisions of state, local or non-U.S. Law), (a) the Interest Purchase will be treated as the purchase and sale of an interest in a partnership governed by Section 741 of the Code, and (b) the Contribution will be treated as the transfer of property to a corporation in exchange for stock of such corporation governed by Section 351 of the Code. Purchaser and Berner agree to treat the Interest Purchase and Contribution consistent with this Section 6.1 and shall not take any position, whether on a Tax Return or in a Tax audit, examination or other proceeding, inconsistent with this Section 6.1, except as otherwise required as the result of a “determination” within the meaning of Section 1313(a) of the Code.

6.2 Straddle Period Taxes.

(a) Except to the extent taken into account in determining the final Purchase Price pursuant to Sections 1.3 and 1.4, Berner shall be responsible for and pay any Taxes of the Company allocable to (i) any Tax period ending on or prior to the Closing Date, and (ii) the portion of any Straddle Period ending on the Closing Date. For purposes of this Agreement, the Taxes allocable to the portion of a Straddle Period ending on the Closing Date shall (x) in the case of property, ad valorem and other Taxes imposed on a periodic basis, be deemed to be the amount of such Tax for the entire Straddle Period multiplied by a fraction, the numerator of which is the number of days in the Straddle Period ending on and including the Closing Date and the denominator of which is the number of days in the entire Straddle Period, and (y) in the case of any other Tax, be deemed to be the amount of Tax that would be payable if the relevant Tax period ended at the end of the Closing Date pursuant to an interim closing-of-the-books. Any credits relating to a Straddle Period shall be taken into account as though the relevant Tax period ended at the end of the Closing Date.

(b) The parties agree that the Company's items of income, gain, loss, deduction and credit for the taxable year that includes the Closing Date will be allocated for federal and applicable state and local Income Tax purposes using the "closing of the books" method as described in Section 706(d)(1) of the Code and Treasury Regulation Section 1.706-4 (and corresponding provisions of state or local Income Tax Law where applicable) as of the end of day on the Closing Date, and accordingly, taxable net income or net loss accrued on or prior to the Closing Date shall be treated as attributable to the portion of such period ending on the Closing Date and shall, to the extent permitted by applicable Law, be allocated for Tax purposes solely to Berner and Rabern Corp.

(c) For the avoidance of doubt, Holdco shall prepare, or cause to be prepared, all Tax Returns of the Company for any Straddle Periods.

6.3 Transfer Taxes. All transfer, documentary, sales, use, stamp, registration and other similar Taxes and all conveyance fees, recording charges and other fees and charges (including any penalties and interest) incurred in connection with the transactions contemplated by this Agreement (collectively "Transfer Taxes") shall be paid fifty percent (50%) by Berner and fifty percent (50%) by Purchaser when due, and the party required by applicable Law will file, or cause to be filed, all necessary Tax Returns and other documentation with respect to all such Transfer Taxes. Purchaser and Berner agree to use their best efforts to obtain any certificate, including a resale certificate, or other document from any Governmental Entity as may be necessary to mitigate, reduce or eliminate any such Transfer Tax.

6.4 Cooperation. Purchaser and Berner agree to furnish or cause to be furnished to each other, upon request, as promptly as practical, such information (including reasonable access to books and records, Tax Returns and Tax filings) and assistance as is reasonably necessary for the filing of any Tax Return, the conduct of any Tax audit, and for the prosecution or defense of any claim, suit or proceeding relating to any Tax matter. Purchaser and Berner shall cooperate with each other in the conduct of any Tax audit or other Tax proceedings and each shall execute and deliver such powers of attorney and other documents as are necessary to carry out the intent of this Section 6.4.

6.5 Section 754 Election. The Company shall make an election under Section 754 of the Code (and under any similar provisions of state, local or non-U.S. Law), for the taxable year of the Company in which the Closing Date occurs.

6.6 Push Out Election. Notwithstanding anything to the contrary in this Agreement or the LLC Agreement, if the Internal Revenue Service or any other Tax authority makes an adjustment to an item of income, gain, loss, deduction or credit of the Company for any Pre-Closing Tax Period, the Company shall

timely and properly make the election to “push out” any adjustments to the partners under Section 6226 of the Code or otherwise take such actions as may be necessary to ensure that Berner and Rabern Corp., and not Purchaser, bear in full the burden of any such adjustment, including any interest, penalties and additions to Tax (and Berner shall take (and cause Rabern Corp. to take) any actions necessary to give effect to this provision).

6.7 Allocation. For purposes of applying Sections 741, 743, 751, and 755 of the Code and the Treasury Regulations promulgated thereunder, the respective fair market values of the Assets of the Company as of the Closing Date shall be determined in accordance with an asset allocation to be prepared by Purchaser (the “Purchase Price Allocation”) and provided to Berner within 240 days after the final determination of the Adjustment Amount. The Purchase Price Allocation shall be prepared in accordance with the applicable provisions of the Code and Treasury Regulations. Berner shall have thirty (30) days to review and comment on the draft Purchase Price Allocation, and Purchaser shall consider in good faith any reasonable comments made by Berner. The Company, Purchaser and Berner agree that they will (i) be bound by the Purchase Price Allocation for the purposes of determining any Taxes, (ii) report for Tax purposes the transactions consummated pursuant to this Agreement in a manner consistent with the Purchase Price Allocation, and (iii) not take a position for Tax purposes that is inconsistent with the Purchase Price Allocation on any Tax Return or in any proceeding before any Tax authority except with the prior written consent of the other Parties.

6.8 Corrective Measures. Purchaser and Berner agree that the Company shall take the corrective measures set forth on Schedule 6.8 with respect to the Tax Returns set forth therein, and Purchaser and Berner shall reasonably cooperate in the completion thereof. For the avoidance of doubt, all costs or expenses related to taking such corrective measures, including the payment of any Taxes with respect thereto, shall be borne by Berner. For the avoidance of doubt, nothing in this Section 6.8 shall in any way limit any claim for indemnification by Purchaser pursuant to any other provision of this Agreement.

SECTION VII INDEMNIFICATION

7.1 Survival. All of the representations and warranties made by any Party in this Agreement or any certificates or documents delivered hereunder shall survive the Closing Date and will continue for a period of eighteen (18) months following the Closing Date, at which time they shall expire, except that such expiration shall have no effect on any obligations in respect of which a notice of claim has been submitted hereunder prior to such expiration, and except that the representations and warranties contained in (i) Section 2.1 (Organization), Section 2.2 (Equity Interests and Related Matters), Section 2.3 (Subsidiaries; Investments), Section 2.4 (Authorization), Section 2.5(a)-(b) (Noncontravention), Section 2.10 (Assets), Section 2.15 (Brokerage), Section 2.22 (Environmental, Health and Safety Requirements) shall survive for a period of five (5) years following the Closing Date, Section 3.1 (Power and Authority), Section 3.2 (Enforceability), Section 3.3 (Noncontravention), Section 3.4 (Ownership of Berner Interest), Section 3.5 (Brokerage), Section 4.1 (Organization), Section 4.2 (Authorization), Section 4.3 (Noncontravention), and Section 4.4 (Brokerage) shall survive for a period of five (5) years following the Closing Date and (ii) Section 2.11 (Tax Matters) and Section 2.18 (Employee Benefit Matters) shall survive the Closing Date until thirty (30) days after the expiration of the statute of limitation applicable to the underlying subject matter of such representation (including any extensions or tollings thereof). All covenants and other agreements contained in this Agreement that by their terms contemplate performance after the Closing Date shall survive the Closing in accordance with their terms and claims resulting from Fraud shall survive indefinitely.

7.2 Indemnification for Purchaser Indemnified Persons. Subject to the terms and conditions of this Section VII, from and after the Closing, Berner shall indemnify and hold harmless Purchaser and its Affiliates, and the shareholders, members, directors, managers, officers, partners, employees, successors, assigns, representatives, and agents of each of them in their capacities as such (collectively, the “Purchaser Indemnified Persons”), from and against, and Berner waives any claim for contribution or indemnity against the Company and its Affiliates with respect to, any and all out-of-pocket claims, losses, monetary damages, obligations, liabilities, fines, fees, penalties, Taxes, loss of Tax benefits or Tax attributes, expenses, costs (including reasonable attorneys’ fees and expenses, court costs, and expert witness fees and expenses), but expressly excluding punitive or exemplary damages (except in each case to the extent that any of the foregoing are awarded in connection with a Third Person Claim) incurred in connection therewith and/or in connection with the enforcement of this Agreement (collectively, “Losses”) incurred by any of them resulting from or arising out of or in connection with:

(a) any breach of or inaccuracy in the representations or warranties of the Company and Berner contained in Section II of this Agreement or Berner contained in Section III of this Agreement;

(b) any breach of any covenant or other obligation of the Company or Berner made or incurred under or pursuant to this Agreement;

(c) any Indemnified Taxes;

(d) any and all Liabilities incurred by Purchaser or the Company in connection with the Supplemental Income Plan;

(e) any claim or threatened claim by Berner against the Company, in each case whether absolute or contingent, liquidated or unliquidated, known or unknown, and whether arising under any agreement or understanding (other than this Agreement and any of the other agreements executed and delivered by the Company or Purchaser in connection herewith) or otherwise at Law or equity (other than claims for which the facts or circumstances giving rise to such claim first occur following Closing);

(f) any claim or threatened claim of ownership in the Company by any Person (other than Berner) purporting to own any Equity Interest in the Company prior to the Closing Date, in each case whether absolute or contingent, liquidated or unliquidated, known or unknown, and whether arising under any agreement or understanding or otherwise at Law or equity; and

(g) the misclassification of any independent contractors engaged by the Company or any of its Subsidiaries prior to the Closing Date.

7.3 Indemnification for Berner Indemnified Persons. Subject to the terms and conditions of this Section VII, from and after the Closing, Purchaser shall indemnify and hold harmless Berner, Rabern Corp, and their successors and assigns (the “Berner Indemnified Persons”) from and against any and all Losses incurred or to be incurred by any of them, resulting from or arising out of or in connection with:

(a) any breach of or inaccuracy in the representations or warranties of Purchaser contained in this Agreement;

(b) any breach of any covenant or other obligation of Purchaser made or incurred under or pursuant to this Agreement; and

(c) any of the Transfer Taxes that Purchaser is responsible for pursuant to Section 6.3.

7.4 Notice of Claim. In the event that Purchaser seeks indemnification on behalf of a Purchaser Indemnified Person, or Berner seeks indemnification on behalf of a Berner Indemnified Person, such Party seeking indemnification (the “Indemnified Party”) shall give reasonably prompt written notice to the indemnifying Party (the “Indemnifying Party”) specifying the facts constituting the basis for such claim and the amount, to the extent known, of the claim asserted; provided, that the right of a Person to be indemnified hereunder shall not be adversely affected by a failure to give such written notice unless, and then only to the extent that, an Indemnifying Party is actually and materially prejudiced thereby. Subject to the terms of this Agreement, the Indemnifying Party shall have thirty (30) days after its receipt of such written notice to make such investigation of any claim of Losses that do not result from a Third Person Claim (a “Direct Claim”) as the Indemnifying Party deems necessary or desirable and respond in writing to such Direct Claim. In order to conduct such investigation the Indemnified Party will, promptly upon request, make all relevant records and personnel available to the Indemnifying Party as reasonably required by the Indemnifying Party to fully investigate the claims. If the Indemnifying Party does not so respond within such thirty (30)-day period, the Indemnifying Party shall be deemed to have accepted full responsibility for all Losses relating to such Direct Claim and shall pay the amount of Losses relating to such Direct Claim to the Indemnified Party within five (5) days after such thirty (30)-day period. If an Indemnified Party disputes such claim within such 30-day period and the Indemnified Party and the Indemnifying Party do not agree to the validity and/or amount of such disputed claim, no payment will be made in respect of the disputed claim until it is definitively resolved, whether by final, non-appealable adjudication of such matter or agreement between the Indemnified Party and the Indemnifying Party.

7.5 Right to Contest Claims of Third Persons.

(a) If an Indemnified Party is entitled to indemnification hereunder because of a claim asserted by any claimant other than an Indemnified Party hereunder (a “Third Person”), the Indemnified Party shall give the Indemnifying Party reasonably prompt written notice thereof after such assertion is actually known to the Indemnified Party; provided, however, that the right of a Person to be indemnified hereunder in respect of claims made by a Third Person shall not be adversely affected by a failure to give such written notice unless, and then only to the extent that, an Indemnifying Party is actually and materially prejudiced thereby. Except as otherwise provided in this Section 7.5, the Indemnifying Party shall then have the right, upon written notice to the Indemnified Party (a “Defense Notice”) within fifteen (15) days after receipt from the Indemnified Party of written notice of such claim, to investigate, contest, or settle the claim alleged by such Third Person (a “Third Person Claim”), provided that the Indemnifying Party has unconditionally acknowledged to the Indemnified Party in writing its obligation to indemnify the Persons to be indemnified hereunder with respect to such Third Person Claim and to discharge any cost or expense arising out of such investigation, contest or settlement. The Indemnified Party may thereafter participate in (but not control) the defense of any such Third Person Claim with its own counsel at its own expense, unless separate representation is necessary to avoid a conflict of interest, in which case such representation shall be at the expense of the Indemnifying Party. Unless and until the Indemnifying Party so acknowledges its obligation to indemnify, the Indemnified Party shall have the right, at its option, to assume and control defense of the matter and to look to the Indemnifying Party for the full amount of the reasonable costs of defense. In the event that the Indemnifying Party shall fail to give the Defense Notice within said fifteen (15)-day period, (i) the Indemnified Party shall be entitled to have the control over said defense and settlement of the subject claim, (ii) the Indemnifying Party will cooperate with and make available to the Indemnified Party such assistance and materials as it may reasonably request, and (iii) the Indemnifying Party shall have the right at its expense to participate in the defense assisted by counsel of its own choosing, and the Indemnifying Party, if it is required to provide indemnification under this Agreement, will be liable for all costs and settlement amounts paid or incurred in connection therewith. If the Indemnifying Party thereafter seeks to question the manner in which the Indemnified Party defended such Third Person Claim or the amount or nature of any such settlement, the Indemnifying Party shall have the burden to prove by that conduct of the Indemnified Party in the defense and/or settlement of such Third Person Claim constituted gross negligence or willful misconduct. The Parties shall make available to each other all relevant information in their possession relating to any such Third Person Claim and shall cooperate in the defense thereof, including cooperation with any insurer to the extent applicable.

(b) In the event that the Indemnifying Party delivers a Defense Notice with respect to such Third Person Claim within fifteen (15) days after receipt thereof and thereby elects to conduct the defense of the subject claim, (i) the Indemnifying Party shall be entitled to have control over said defense and, subject to the provisions set forth below, settlement of the subject claim, (ii) the Indemnified Party will cooperate with and make available to the Indemnifying Party such assistance, personnel and materials as it may reasonably request, and (iii) the Indemnified Party shall have the right at its expense to participate in the defense assisted by counsel of its own choosing. In such an event, the Indemnifying Party will not settle the subject claim without the prior written consent of the Indemnified Party, which consent will not be unreasonably withheld, conditioned or delayed; provided, that consent of the Indemnified Party shall not be required in any of the following cases: (i) there is no finding or admission of any violation of Law or any violation of the rights of any Person; (ii) the sole relief provided is monetary damages that are paid in full by the Indemnifying Party; and (iii) the Indemnified Party shall have no Liability with respect to any compromise or settlement of such Third Person Claims effected without its consent.

(c) Notwithstanding anything to the contrary contained in this Section 7.5, the Indemnifying Party shall not be entitled to control, but may participate in, and the Indemnified Party shall be entitled to have sole control, including the right to select defense counsel, over the defense or settlement of any claim (i) that seeks a temporary restraining order, a preliminary or permanent injunction or specific performance against the Indemnified Party, (ii) that involves criminal allegations against the Indemnified Party, (iii) that, if successful, would set a precedent that would materially interfere with, or have a Material Adverse Effect on, the business or financial condition of the Indemnified Party, or (iv) that imposes Liability on the part of the Indemnified Party for which the Indemnified Party is not entitled to indemnification hereunder. In such event, the Indemnifying Party will still be subject to its obligations hereunder, and the Indemnified Party will not settle the subject claim without the prior written consent of the Indemnifying Party, which consent will not be unreasonably withheld, conditioned or delayed.

7.6 Limitations on Indemnity.

(a) In no event will Berner have any obligation to indemnify Purchaser Indemnified Persons pursuant to Section 7.2 for an aggregate amount in excess of Berner's portion of the aggregate Cash consideration actually received by Berner pursuant to this Agreement.

(b) No Berner Indemnified Person shall have any claim for contribution from or against the Company as a result of any indemnification or other payments made by Berner to any of Purchaser Indemnified Persons pursuant to this Agreement.

(c) No information or knowledge acquired, or investigations conducted, by Purchaser or its representatives of the Company, any of its businesses, Assets, Liabilities, or otherwise, shall in any way limit, or constitute a waiver of, or a defense to, any claim for indemnification or other claim by Purchaser or any Purchaser Indemnified Person under this Agreement.

(d) Notwithstanding anything contained herein or elsewhere to the contrary, all "material," "Material Adverse Effect" or similar materiality type qualifications contained in the representations and warranties set forth in this Agreement (other than the representations and warranties set forth in Section 2.6(b) (with respect to the first use of materiality therein only), Section 2.8 or the defined term "Material Contract" in Section 2.12(c)) shall be ignored and not given any effect for the indemnification provisions of this Agreement, including, without limitation, for purposes of determining the amount of any Losses incurred with respect to the indemnification provisions hereof and in determining whether or not a breach of a representation or warranty has occurred.

(e) Purchaser Indemnified Persons' right to indemnification pursuant to this Agreement on account of any Losses will be reduced by all insurance or other third-party indemnification proceeds actually received by Purchaser Indemnified Persons with respect to such Losses (net of any costs and expenses incurred in connection with such recovery, including any retention or deductible payable thereunder). Purchaser Indemnified Persons shall remit to Berner any such insurance or other third-party proceeds (net of any costs and expenses incurred in connection with such recovery, including any retention or deductible payable thereunder) that are paid to Purchaser Indemnified Persons with respect to Losses for which Purchaser Indemnified Persons have been previously paid by Berner pursuant to this Agreement.

(f) Purchaser Indemnified Persons will not be entitled to indemnification pursuant to this Agreement for Losses to the extent taken into account in determining the Adjustment Amount.

(g) No Indemnified Party shall be entitled to be compensated more than once for the same Losses.

(h) Subject to the limits set forth in this Section VII, any Losses owed to any Purchaser Indemnified Person pursuant to a claim for indemnity under Section 7.2 shall be satisfied by Berner in the following manner and order of priority: first, from the account holding the Indemnity Escrow Amount to the extent of the then-remaining Indemnity Escrow Amount, and second, thereafter to the extent that such Losses exceed the Indemnity Escrow Amount, from Berner directly.

(i) Subject to Section 9.4 of this Agreement, the indemnification provisions of this Section VII shall be the exclusive remedy of each Purchaser Indemnified Person with respect to a breach of this Agreement by the Company or Berner.

7.7 Characterization of Indemnity Payments. Any indemnification payments made pursuant to this Agreement shall be considered, to the extent permissible under Law, as adjustments to the Purchase Price for all purposes.

SECTION VIII NON-COMPETITION; NON-SOLICITATION; NON-DISPARAGEMENT

8.1 Berner hereby acknowledges that he is familiar with the trade secrets and other Confidential Information of the Company and its Subsidiaries. Berner acknowledges and agrees that Purchaser would be irreparably damaged if Berner were to, in violation of this Section 8.1, provide services to or otherwise participate in the business of any Person competing with the business of the Company and its Subsidiaries and that any such competition by Berner (or his Affiliates) would result in a significant loss of goodwill by Purchaser and its Affiliates (including the Company and its Subsidiaries after the Closing). Berner further acknowledges and agrees that (x) the covenants and agreements set forth in this Section 8.1 were a material inducement to Purchaser to enter into this Agreement and to perform its obligations hereunder, and that Purchaser and its stakeholders would not obtain the benefit of the bargain set forth in this Agreement as specifically negotiated by the Parties if Berner breached the provisions of this Section 8.1; (y) at the Closing, Berner will receive valuable consideration for the Berner Interest; and (z) Purchaser is making a substantial Investment in the Company and its Subsidiaries, including good will, customer relationships, Intellectual Property and other proprietary and/or Confidential Information, and intends to expand upon the scope, geographic, industry, types of services and otherwise, and relationships with current and former customers. Therefore, Berner agrees, in further consideration of the Purchase Price to be paid hereunder for the Berner Interest sold by Berner on the Closing Date, that until the fifth (5th) anniversary of the Closing Date (the "Restricted Period"), Berner shall not (and shall cause his Affiliates not to), directly or indirectly:

(a) own (in whole or in part), consult for, provide services to, engage in sales or marketing for, manage, operate, finance, join, control, participate in, be employed by, permit its, his, or her name to be used by, or otherwise have any direct or indirect interest in, whether as a shareholder, member, partner, sole proprietor, owner, principal, director, officer, manager, employee, agent, broker, representative, independent contractor, consultant, franchisor, franchisee, creditor, joint venture partner or otherwise, anywhere in the United States of America, any Person that is engaged directly or indirectly in the business of equipment rental and leasing or any other business conducted or engaged in by the Company or any of its Subsidiaries as of the Closing Date; provided, however, that nothing herein shall prohibit Berner or any of his Affiliates from being a passive owner of not more than two percent (2%) of the outstanding stock of any class of a corporation which is publicly traded so long as none of such Persons has any active participation in the business of such corporation;

(b) solicit or induce, or attempt to solicit or induce, any Person who is then (or was within the twelve (12) months preceding such conduct) a customer or client, or prospective customer or client, of the Company or any of its Subsidiaries to (i) do business with any competitor of the Company or any of its Subsidiaries, (ii) purchase any product or service from anyone other than Purchaser or its Affiliates (including the Company and its Subsidiaries after the Closing Date) that is the same as or substantially similar to, or a reasonable substitute for, any product or service sold, provided or offered by the Company or any of its Subsidiaries, or (iii) terminate, reduce or otherwise alter to the detriment of the Company or any of its Subsidiaries such Person's business relationship with the Company or any of its Subsidiaries;

(c) solicit or induce, or attempt to solicit or induce, any Person who is then (or was within the twelve (12) months preceding such conduct) a vendor, supplier, strategic partner, joint venture partner, licensee, licensor, bona fide potential acquisition or investment target, or other material business relation of the Company or any of its Subsidiaries to terminate, reduce or otherwise alter to the detriment of the Company or any of its Subsidiaries such Person's business relationship with the Company or any of its Subsidiaries;

(d) (i) solicit or induce, or attempt to solicit or induce, any Person who is then (or was within the six (6) months preceding such conduct) an employee, contractor or consultant of the Company or any of its Subsidiaries to terminate, reduce or otherwise alter to the detriment of the Company or any of its Subsidiaries such Person's employment, contractor or consulting relationship with the Company or any of its Subsidiaries, or (ii) hire any such Person (it being conclusively presumed by the Parties, so as to avoid any disputes under this Section 8.1, that any such hiring is also a violation of clause (i) above); or

(e) make any disparaging, derogatory or negative statement or communication regarding the Company or any of its Subsidiaries, Purchaser or any of its Affiliates, the business of the Company, or any of their respective products, services, owners, directors, officers, managers, employees or agents; provided that nothing contained in this Section 8.1(e) shall prohibit (i) giving truthful testimony under oath in any judicial, administrative or arbitral proceeding, (ii) making truthful statements to government officials in the course of their official duties, or (iii) reporting violations of Law to law enforcement officials.

8.2 If, at the time of enforcement of the covenants contained in Section 8.1 (the "Restrictive Covenants"), a court shall hold that the Restricted Period, scope or area restrictions stated herein are unreasonable under circumstances then existing, the Parties agree that the maximum duration, scope or area reasonable under such circumstances shall be substituted for the stated Restricted Period, scope or area and

that the court shall be allowed and directed to revise the restrictions contained herein to cover the maximum Restricted Period, scope and area permitted by Law. Berner has consulted with legal counsel regarding the Restrictive Covenants and based on such consultation has determined and hereby acknowledges that the Restrictive Covenants are reasonable in terms of the Restricted Period, scope and area restrictions and are necessary to protect Purchaser and its Affiliates (including the Company and its Subsidiaries after the Closing), the goodwill of the Company and its Subsidiaries, and the substantial investment made by Purchaser hereunder. Berner further acknowledges and agrees that the Restrictive Covenants are being entered into by him in connection with the sale of the Berner Interest and not directly or indirectly in connection with his employment or other relationship with the Company.

8.3 If Berner or any Affiliate of Berner breaches or threatens to breach any of the Restrictive Covenants, Purchaser shall have the following rights and remedies, each of which rights and remedies shall be independent of the others and severally enforceable, and each of which is in addition to, and not in lieu of, any other rights and remedies available to Purchaser or its Affiliates at Law or in equity: (i) the right and remedy to have the Restrictive Covenants specifically enforced by any court of competent jurisdiction, it being agreed that any breach or threatened breach of the Restrictive Covenants would cause irreparable injury to Purchaser and its Affiliates and that money damages would not provide an adequate remedy to Purchaser; and (ii) the right and remedy to require Berner or his Affiliate (as applicable) to account for and pay over to Purchaser any profits, monies, accruals, increments or other benefits derived or received by such Person as the result of any transactions or other actions constituting a breach of the Restrictive Covenants.

8.4 In the event of any breach or violation by Berner or any of his Affiliates of any of the Restrictive Covenants, the Restricted Period with respect to such covenant shall be tolled until such breach or violation has ceased.

SECTION IX MISCELLANEOUS

9.1 Fees and Expenses. Except as otherwise set forth herein, all fees and expenses incurred in connection with the Transaction Documents and the transactions contemplated thereby, including all legal, accounting, Tax and financial advisory, consulting, investment banking and all other fees and expenses of third parties incurred by a Party in connection with the negotiation and effectuation of the terms and conditions of the Transaction Documents and the transactions contemplated hereby shall be the obligation of the Party incurring such fees and expenses.

9.2 Press Release and Announcements. No Party will make any public disclosure of the terms hereof or issue any press release with respect to the transactions contemplated by this Agreement or otherwise issue any written public statements with respect to such transactions without the prior written consent of each other Party, not to be unreasonably withheld, delayed or conditioned, except as may be required by applicable requirements of Law or by obligations pursuant to any listing agreement with any national securities exchange or quotation system, in which case the Party making such disclosure will first provide to the other Parties the text of the proposed disclosure, the reasons such disclosure is required and the time and manner in which the disclosure is intended to be made and the other Parties shall be permitted to comment on such proposed disclosure.

9.3 Further Assurances; Lien Releases. In case at any time after the Closing any further action is necessary to carry out the purposes of this Agreement or to consummate the transactions contemplated hereby, each of the Parties will take such further action (including the execution and delivery of such further instruments and documents) as any other Party may reasonably request, all at the sole cost and expense of the requesting Party. In addition to the foregoing, from and after the Closing Date, Berner agrees to provide assistance, as may be reasonably requested by Manitex, to have terminated any liens on the Company, the Business or any assets of the Company or the Business that are in existence at Closing.

9.4 Remedies. Each of the Parties acknowledges and agrees that the other Parties may be damaged irreparably in the event any of the provisions of this Agreement are not performed in accordance with their specific terms or otherwise are breached. Accordingly, in addition to other remedies available to the Parties, each of the Parties agrees that the other Parties shall be entitled to seek an injunction or injunctions to prevent breaches of the provisions of this Agreement and to enforce specifically this Agreement and the terms and provisions hereof (without the posting of bond or other security) in any action instituted in any court of the United States or any state thereof having jurisdiction over the Parties and the matter.

9.5 Attorneys' Fees. In the event that any suit, action or arbitration is instituted under or in relation to this Agreement, including without limitation to enforce any provision in this Agreement, the prevailing Party in such dispute shall be entitled to recover from the losing Party all fees, costs and expenses of enforcing any right of such prevailing Party under or with respect to this Agreement, including without limitation, such reasonable fees and expenses of attorneys and accountants, which shall include, without limitation, all fees, costs and expenses of appeals.

9.6 Amendments and Waivers. This Agreement may be amended, or any provision of this Agreement may be waived; provided that any such amendment or waiver shall be set forth in a writing executed by Berner and Purchaser. No course of dealing between or among the Parties shall be deemed effective to modify, amend or discharge any part of this Agreement or any rights or obligations of any Party under or by reason of this Agreement.

9.7 Successors and Assigns. This Agreement and all of the covenants and agreements contained herein and all of the rights, interests and obligations hereunder, by or on behalf of any of the Parties hereto, shall bind and inure to the benefit of the respective successors and assigns of the Parties hereto whether so expressed or not, except that neither this Agreement nor any of the covenants and agreements herein or rights, interests or obligations hereunder may be assigned or delegated by any Party without first obtaining written consent of the other Parties; provided that Purchaser may assign this Agreement to any of its Affiliates without the prior written consent of the other Parties as long as the transferee assumes all obligations and liabilities of Purchaser hereunder. Notwithstanding any such permitted assignment, Purchaser shall remain liable hereunder.

9.8 Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable Law, but if any provision of this Agreement or the application of any such provision to any Person or circumstance shall be held to be prohibited by, illegal or unenforceable under applicable Law in any respect by a court of competent jurisdiction, such provision shall be ineffective only to the extent of such prohibition or illegality or unenforceability, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

9.9 Counterparts. This Agreement may be executed simultaneously in counterparts (including by means of telecopied, facsimile, electronic mail, or portable data format (PDF) signature pages), any one of which need not contain the signatures of more than one Party, but all such counterparts taken together shall constitute one and the same Agreement.

9.10 Descriptive Headings; Interpretation. The headings and captions used in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. Any capitalized terms used in any Schedule or Exhibit attached hereto and not otherwise defined therein shall have the meanings set forth in this Agreement. The use of the word "including" herein shall mean "including without limitation." The Parties intend that each representation, warranty and covenant contained herein shall have independent significance.

9.11 Entire Agreement. This Agreement, the Transaction Documents and the agreements and documents referred to herein and therein contain the entire agreement and understanding between the Parties with respect to the subject matter hereof and supersede all prior agreements and understandings, whether written or oral, relating to such subject matter in any way.

9.12 No Third-Party Beneficiaries. This Agreement is for the sole benefit of the Parties and their permitted successors and assigns and nothing herein expressed or implied shall give or be construed to give any Person, other than the Parties and such permitted successors and assigns, any legal or equitable rights hereunder.

9.13 Schedules. The Schedules are not intended to constitute and shall not be construed as constituting any representations or warranties of the Company or Berner except as and to the extent provided in Section II or Section III, subject to the limitations herein and therein. Disclosure of any item in any Section of the Schedules shall not constitute an admission or indication that such item or matter is material or would reasonably be expected to have a Material Adverse Effect. Any exception to any representations or warranties disclosed on one Schedule shall also constitute an exception to any other representations or warranties made in this Agreement only if (i) the substance of such exception is disclosed as provided herein on each such other applicable Schedule, (ii) a specific cross reference to a disclosure on another Schedule is made or (iii) the applicability of such exception to another representation and warranty is reasonably apparent on its face (without reference to any underlying document or matter).

9.14 Governing Law; Venue. All issues and questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by, and construed in accordance with, the Laws of the State of Delaware without giving effect to any choice of Law or conflict of Law rules or provisions (whether of the State of Delaware or any other jurisdiction) that would cause the application of the Laws of any jurisdiction other than the State of Delaware. Any action arising out of or relating to this Agreement shall be brought only in the state or federal courts in or for the State of Delaware, and the Parties hereby irrevocably waive any right that they might have to challenge the selection of those forums, including but not limited to challenges to personal jurisdiction, venue, or the convenience of the forum.

9.15 Notices. All notices, demands or other communications to be given or delivered under or by reason of the provisions of this Agreement shall be in writing and shall be deemed to have been given when delivered personally to the recipient, one business day after being sent to the recipient by reputable overnight courier service (charges prepaid) provided that confirmation of delivery is received, upon machine-generated acknowledgment of receipt after transmittal electronic confirmation of delivery after transmittal by e-mail (provided that a confirmation copy is sent via reputable overnight courier service for delivery within two business days thereafter) or five days after being mailed to the recipient by certified or registered mail (return receipt requested and postage prepaid). Such notices, demands and other communications shall be sent to the Parties at the addresses indicated below or to such other address or to the attention of such other Person as the recipient party has specified by prior written notice to the sending party.

If to the Company:

Rabern Rentals, LLC

Attention: _____

Email:

with a copy to:

(which shall not constitute notice to the Company)

Attention: _____

Email:

If to Berner:

Steve Berner
8000 Monticello Court
Amarillo, Texas 79119
Email: steve@rabern.net

with a copy to:

(which shall not constitute notice to Berner)

Underwood Law Firm, P.C.
Attention: David P. Goad or Gavin J. Gadberry
500 South Taylor, Suite 1200
Amarillo, Texas 79101
Email: dave.goad@uwlaw.com or gavin.gadberry@uwlaw.com

If to Purchaser:

Manitex International, Inc.
9725 Industrial Drive
Bridgeview, IL 60455
Attention: Joseph Doolan
Email: jdoolan@manitex.com

with a copy to:

(which shall not constitute notice to Purchaser)

Bryan Cave Leighton Paisner LLP
One Metropolitan Square
211 North Broadway, Suite 3600
St. Louis, MO 63102
Attention: Todd M. Kaye
Email: todd.kaye@bclplaw.com

9.16 No Strict Construction. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties, and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provisions of this Agreement.

* * * * *

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date first written above.

RABERN RENTALS, LLC

By: /s/ Steven Berner

Name: Steven Berner

Title: President

MANITEX INTERNATIONAL, INC.

By: /s/ Joseph Doolan

Name: Joseph Doolan

Title: Chief Financial Officer

/s/ Steven Berner

Steven Berner

Exhibit A
Form of LLC Agreement

Exhibit B

Form of Escrow Agreement

Exhibit C
Form of Lease Agreement

Exhibit D

Form of Promissory Note

COMMERCIAL CREDIT AGREEMENT

This COMMERCIAL CREDIT AGREEMENT (the “**Credit Agreement**”) is entered into as of April 11, 2022 (the “**Effective Date**”) by and among MANITEX INTERNATIONAL, INC., a Michigan corporation (“**Manitex International**”), Manitex, Inc., a Texas corporation (“**Manitex, Inc.**”), MANITEX, LLC, a Delaware limited liability company (“**Manitex, LLC**”), CRANE AND MACHINERY, INC., an Illinois corporation (“**Crane and Machinery**”), CRANE AND MACHINERY LEASING, INC., an Illinois corporation (“**Crane and Machinery Leasing**”), MANITEX SABRE INC., a Michigan corporation (“**Manitex Sabre**”), BADGER EQUIPMENT COMPANY, a Minnesota corporation (“**Badger**”), RABERN HOLDCO, INC., a Delaware corporation (“**Holdco**”), and RABERN RENTALS, LLC, a Delaware limited liability company (“**Rabern**” and together with Manitex International, Manitex, Inc., Manitex, LLC, Crane and Machinery, Crane and Machinery Leasing, Manitex Sabre, Badger and Holdco, collectively the “**Borrower**”), and AMARILLO NATIONAL BANK, a national banking association (the “**Lender**”).

Recitals:

A. Borrower has requested that Lender extend to Borrower (i) a \$40,000,000.00 revolving credit facility (the “**Operating Loan**”) to finance (a) the working capital needs and general business operations of the Borrowers other than Rabern and Holdco and (b) Permitted Acquisitions, including, without limitation, the acquisition by Manitex International of 70% of the Capital Securities of Holdco, the repayment of certain existing indebtedness of Rabern, and the payment of related fees and expenses (collectively, the “**Rabern Acquisition**”); (ii) a \$30,000,000.00 revolving credit facility (the “**Holdco Operating Loan**”) to finance (a) the working capital needs and general business operations of Rabern and Holdco and (b) Permitted Acquisitions, including, without limitation, the Rabern Acquisition; and (iii) a \$15,000,000.00 term loan (the “**Term Loan**”) to finance the Rabern Acquisition.

B. Subject to the terms and conditions set forth with particularity in this Credit Agreement, and in consideration of the promises and representations made by Borrower in this Credit Agreement, Lender is willing to accede to the requests made by Borrower.

NOW THEREFORE, in consideration of the foregoing Recitals (which constitutes a substantive part of this Credit Agreement) and the mutual covenants herein contained and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by all parties hereto prior to execution of this Credit Agreement, the parties hereto agree as follows:

I. DEFINITIONS

1.1 Definitions. As used in this Credit Agreement, the following terms have the meanings assigned to them in this Section 1.1. Initially capitalized words and phrases not defined in this Section 1.1 are defined in the Recitals to this Credit Agreement or later in this Credit Agreement.

Affiliate. The term “Affiliate” means with respect to any Person, any other Person: (a) that directly or indirectly controls, is controlled by, or is under common control with such Person; (b) that beneficially owns or holds 50% or more of any class of the voting or other equity interests of such Person; or (c) that 51% or more of any class of voting interests or other equity interests of which is beneficially owned or held, directly or indirectly, by such Person. Regardless of the foregoing definitions, each Borrower is deemed to be an Affiliate of each other Borrower.

Borrowing Base Notes. The term “Borrowing Base Notes” means a collective reference to the Operating Note, Holdco Operating Loan, and any other promissory note executed by Borrower and made payable to Lender’s order that is required to be included in a Borrowing Base Report.

Capital Securities. The term “Capital Securities” means, with respect to any Person, all shares, interests, participations or other equivalents (however designated, whether voting or non-voting) of such Person’s capital, whether now outstanding or issued or acquired after the Effective Date, including common shares, preferred shares, membership interests in a limited liability company, limited or general partnership interests in a partnership, interests in a trust, interests in other unincorporated organizations or any other equivalent of such ownership interest.

Change of Control. The term “Change of Control” means: (a) the occurrence of any event (whether in one or more transactions) that results in Manitex International or any of its Subsidiaries ceasing to own directly or indirectly 100% of the Capital Securities of Manitex, LLC, Manitex Sabre, Badger, Crane and Machinery, and Crane Machinery Leasing; (b) the occurrence of any event (whether in one or more transactions) that results in Manitex, LLC or any

Subsidiary of Manitek International ceasing to own directly 100% of the Capital Securities of Manitek, Inc.; (c) the occurrence of any event (whether in one or more transactions) that results in Manitek International or any of its Subsidiaries ceasing to own directly or indirectly 70% of the Capital Securities of Holdco; or (d) the occurrence of any event (whether in one or more transactions) that results in Holdco or any Subsidiary of Manitek International ceasing to own directly or indirectly 99% of the Capital Securities of Rabern.

Collateral. The term “Collateral” means all property described in the Collateral Documents, including without limitation all of Borrower’s Accounts (as defined in Section 9.102(a) (2) of the Texas Business and Commerce Code (the “**Texas UCC**”), contract rights, receivables, accounts receivable, and other rights to payment (the “**Accounts**”), all of Borrower’s “**Inventory**” (as defined in Section 9.102(a) (48) of the Texas UCC), all of Borrower’s “**Equipment**” (as defined in Section 9.102(a) (33) of the Texas UCC), and all of Borrower’s “**General Intangibles**” (as defined in Section 9.102(a) (42) of the Texas UCC).

Collateral Documents. The term “Collateral Documents” means such agreements, pledges, pledge agreements, security agreements, mortgages, deeds of trust, assignments that are executed by any Person to secure payment of any Borrower’s Obligations and indebtedness to Lender, specifically including without any limitation, the Security Agreements, the Subordination Agreements, and any other document that Lender requests to be executed to secure Borrower’s payment and performance of the Loans, as a condition precedent of Lender’s obligations hereunder. The liens, security interests, and encumbrances granted against the Collateral as set forth in the Collateral Documents notwithstanding anything provided to the contrary in any of the Collateral Documents are hereby granted to secure payment and performance of each of the Loans.

Eligible Assignee. The term “Eligible Assignee” means: (a) an Affiliate of Lender, and (b) any other Person (other than a natural Person) approved by: (i) Lender; and (ii) Borrower (each such approval not to be unreasonably withheld or delayed).

Excluded Account. The term “Excluded Account” means (a) any deposit or operating accounts so long as the aggregate balance of all such accounts does not at any time exceed \$100,000.00, (b) any deposit or operating account that is solely used for purposes of funding payroll, payroll taxes or employee benefit payments so long as the monthly daily average balance of such account(s) is less than \$75,000.00, and (c) account number 2110078140 maintained by Rabern at First Financial Bank in Hereford, Texas.

Factoring Facility. The term “Factoring Facility” means a receivables facility providing for the sale, transfer, factor and/or pledge by a Borrower of Accounts to a third-party lender. In connection with the establishment of a Factoring Facility, Lender shall enter into a customary subordination agreement with the applicable Borrower and such third-party lender with respect to the Accounts and related assets subject to such Factoring Facility (in form and substance reasonably acceptable to Lender) prior to Borrower’s execution of such Factoring Facility.

Loan Documents or Loan Papers. The term “Loan Documents” or “Loan Papers” means all documents that evidence or secure any Borrower’s indebtedness to Lender, including without any limitation, this Credit Agreement, the Notes, the Security Agreements (as well as any other Collateral Documents), and all other instruments, agreements, and other documentation executed and delivered pursuant to or in connection with this Credit Agreement or the Loans, as those instruments, agreements, and other documentation may be amended or otherwise modified from time to time.

Loans. The term “Loans” collectively refers to the Operating Loan, the Holdco Operating Loan, the Term Loan, and any other loan at any time executed that is evidenced by any promissory note executed by any Borrower and made payable to Lender’s order, as the same may from time to time be renewed, amended, or restated, together with all substitutes therefore and any replacements thereof. The term “**Loan**” refers to any one of the foregoing Loans.

Notes. The term “Notes” collectively refers to the Operating Note, the Holdco Operating Note, the Term Note, and any other promissory note at any time made and executed by Borrower that is payable to Lender’s order, as the same may from time to time be renewed, amended, or restated, together with all substitutes therefore and any replacements thereof. The term “**Note**” refers to any one of the foregoing Notes.

Obligations. The term “Obligations” means: (a) any and all indebtedness, obligations, and liabilities of Borrower, to Lender of every kind and description, direct or indirect, secured or unsecured, joint or several, absolute or contingent, due or to become due, whether for payment or performance, now existing or arising in the future, regardless of how they may arise or by what instrument, agreement, or book account they may be evidenced, or

whether evidenced by any instrument, agreement, or book account, including, without limitation, the Loans, and including any renewals, extensions, modifications, or restatements thereof; (b) all other indebtedness of Borrower to Lender, including overdrafts of Borrower's accounts maintained at Lender; (c) all indebtedness, liabilities or obligations owing from Borrower to others that Lender may have obtained by purchase, negotiation, discount, assignment, or otherwise pursuant to any of the Loan Documents; and (d) all interest, taxes, fees, charges, expenses, and reasonable attorneys' fees chargeable to Borrower and paid or incurred by Lender under this Credit Agreement or any of the Loan Documents, whether any of the foregoing is direct, indirect, related, unrelated, fixed, contingent, liquidated, un-liquidated, joint, several, or joint and several.

Parent. The term "Parent" means any Person now or at any time or times hereafter owning or controlling (alone or with any other Person) at least a majority of the issued and outstanding equity of a Borrower and, if a Borrower is a partnership, the general partner of such Borrower.

Permitted Acquisition. The term "Permitted Acquisition" means an acquisition by Borrower that satisfies the following requirements: (a) such acquisition is not a hostile or contested acquisition, (b) the business acquired in connection with such acquisition is (i) located in the United States, (ii) organized under applicable United States and state laws, and (iii) not engaged, directly or indirectly, in any line of business other than the businesses in which the Borrower are engaged on the Effective Date and any business activities that are substantially similar, related, or incidental thereto, (c) both before and after giving effect to such acquisition, each of the representations and warranties in the Loan Documents is true and correct (except any such representation or warranty which relates to a specified prior date), (d) if such acquisition is an acquisition of the Capital Securities of a Person, such acquisition is structured so that the acquired Person shall become a wholly-owned Subsidiary of the Borrower, provided that Borrower shall execute any Collateral Documents reasonably requested by Lender in connection therewith to grant the liens required pursuant to the Loan Documents, and (e) if such acquisition is an acquisition of assets, such acquisition is structured so that Borrower shall acquire such assets, provided that Borrower shall execute any Collateral Documents reasonably requested by Lender in connection therewith to grant the liens required pursuant to the Loan Documents.

Permitted Discretion. The term "Permitted Discretion" means a determination made in good faith and in the exercise of reasonable (from the perspective of a secured asset-based lender) business judgment.

Permitted Dispositions. The term "Permitted Dispositions" shall mean (a) the disposition or transfer of obsolete and worn-out equipment in the ordinary course of business, (b) any involuntary loss, condemnation, damage or destruction of property (provided the net casualty insurance proceeds of same shall be paid to Lender to be applied to the Obligations), (c) dispositions or discounts of defaulted Accounts in the ordinary course of business, (d) sales of inventory and other dispositions of assets in the ordinary course of business, (e) sales of Accounts pursuant to a Factoring Facility, (f) the disposition of the real property located at 217 Patenauder Dr., Winona, Minnesota and equipment and other personal property located at such facility, and (g) other dispositions in an aggregate amount not to exceed \$1,000,000 per calendar year.

Permitted Liens. The term "Permitted Liens" shall mean: (a) liens in favor of Lender; (b) liens for taxes, assessments or other governmental charges not delinquent or being contested with adequate reserves maintained in accordance with GAAP; (c) deposits or pledges to secure bids, tenders, contracts (other than contracts for the payment of money), leases, statutory obligations, surety and appeal bonds and other obligations of like nature arising in the ordinary course of business; (d) liens arising by virtue of the rendition, entry or issuance against any Borrower, or any property of any Borrower, of any judgment, writ, order, or decree to the extent the rendition, entry, issuance or continued existence of such judgment, writ, order or decree (or any event or circumstance relating thereto) that has not resulted in the occurrence of an Event of Default pursuant to Section 9.1(j); (e) carriers', repairmen's, mechanics', workers', materialmen's, landlord's, supplier's or other like liens arising in the ordinary course of business; (f) liens placed upon fixed assets acquired to secure a portion of the purchase price thereof and liens in connection with capitalized leases, as and to the extent permitted by this Credit Agreement; (g) any interest of title of a lessor under, and liens arising from UCC financing statements solely evidencing such lessor's interest under, leases; (h) zoning restrictions and easements, licenses, covenants and other restrictions affecting the use of real property that do not individually or in the aggregate have a Material Adverse Effect on the applicable Borrower's ability to use such real property for its intended purpose in connection with such Borrower's business; (i) liens set forth on Schedule 1; (j) involuntary liens securing amounts less than \$1,000,000 and which are released or for which a bond acceptable to Lender in its Permitted Discretion, determined in good faith, has been posted within twenty (20) days of its creation; (k) normal and customary

rights of setoff upon deposits of cash in favor of banks or other depository institutions holding such deposits; (l) liens securing the indebtedness permitted pursuant to Section 8.4(k); (m) liens approved by Lender in writing from time to time; and (n) from the Effective Date until October 11 2022, liens in favor of Canadian Imperial Bank of Commerce on deposit account number 2533502 maintained at CIBC Bank USA having a balance not to exceed \$595,000.00.

Person. The term “Person” means any individual, corporation, limited liability company, partnership, joint venture, estate, trust, unincorporated association, or any other business entity, or any federal, state, county or municipal government or any bureau, department or agency thereof and any fiduciary acting in such capacity on behalf of any of the foregoing.

PM Group. The term “PM Group” means The PM Group S.p.A., a company organized under the laws of Italy.

Security Agreements. The term “Security Agreements” means a collective reference to: (a) the April 11, 2022 Security Agreement executed by Borrower and granting a security interest against all of Borrower’s personal property as described therein to secure payment of Borrower’s Obligations and indebtedness to Lender (the “**Borrower Security Agreement**”); (b) any commercial security agreement or pledge agreement executed at any time, by any Person granting to Lender specified liens, security interests, and encumbrances against the property described therein to secure payment of Borrower’s Obligations and indebtedness to Lender; and (c) as any of the foregoing may from time to time be amended, modified or restated, together with all substitutions therefor and replacements thereof. The term “**Security Agreement**” means any one of the Security Agreements. The liens, security interests, and encumbrances granted in the Security Agreements notwithstanding anything provided to the contrary in any Loan Document are hereby granted to secure payment and performance of each of the Loans.

Specified Subsidiary. The term “Specified Subsidiary” means collectively PM Group and Valla.

Subordination Agreements. The term “Subordination Agreements” means any subordination agreement with respect to indebtedness payable by Borrower that is required by Lender as a condition of this Credit Agreement, including without limitation any required Affiliate Subordination Agreement, and as any of the foregoing may from time to time be amended, modified or restated, together with all substitutions therefor and replacements thereof.

Subsidiary. The term “Subsidiary” means a corporation, partnership, joint venture, limited liability company, or other business entity of which a majority of the shares or securities or other ownership interests having ordinary voting power for the election of directors, managers, or other governing body (other than securities or interests having such power only by reason of the happening of a contingency) are at the time beneficially owned, or the management of which is otherwise controlled, directly, or indirectly through one or more intermediaries, or both, by such Person. Unless otherwise specified, all references to a “Subsidiary” or to Subsidiaries” will refer to a Subsidiary or Subsidiaries of Borrower.

Valla. The term “Valla” means Manitex Valla S.r.L., a company organized under the laws of Italy.

Accounting Terms and Determinations. Unless otherwise specified herein, all accounting terms used herein will be interpreted, all accounting determinations hereunder will be made, and all financial statements required to be delivered hereunder will be expressed in U.S. dollars and both the Audited Annual Financial Statements and the Monthly Financial Statements to be delivered hereunder will be prepared in accordance with generally accepted accounting principles applied consistently through the periods involved (“**GAAP**”).

II. THE CREDIT FACILITIES

2.1 The Operating Loan. Subject to the terms and conditions set forth in this Credit Agreement and in the other Loan Documents, Lender has agreed to advance funds to Borrower from time to time pursuant to a \$40,000,000.00 revolving credit facility to finance (a) the working capital needs and general business operations of the Borrowers other than Rabern and Holdco, and (b) Permitted Acquisitions, including, without limitation, the Rabern Acquisition (the “**Operating Loan**”). Advances under the Operating Loan, in addition to other conditions set forth in this Credit Agreement (including the limitations of the Borrowing Base Report as set forth below), are subject to the following terms and conditions:

- (i) **Limitation on Advances.** The aggregate maximum amount of all advances under the Operating Loan outstanding at any one time, subject to any other limitation contained in this Credit Agreement may not exceed \$40,000,000.00;

(ii) Maturity Date. The Operating Loan matures on April 11, 2024, or at such other date as is agreed to by Lender in any renewal, amendment, modification, extension, or restatement of the below-defined "Operating Note" or in any renewal, amendment, modification, extension, or restatement thereof. Notwithstanding the foregoing, the Operating Note will mature on a rolling 2-year maturity, that is, initially, if on April 11, 2024, there is not an existing Event of Default under the Operating Note, this Credit Agreement, or the other Loan Documents, Lender in its discretion will modify or renew and extend the then existing Operating Note to provide for it to mature on April 11, 2026, and the process will repeat on April 11 of each year following 2024 so that the maturity of the Operating Note continues to extend in one-year increments, provided that Lender will give Borrower one hundred twenty (120) days' prior written notice if it does not intend to modify or renew and extend the then existing Operating Note;

(iii) Revolving Feature. Within the limits of Lender's commitment to advance monies under the Operating Loan, and subject to all limitations contained in this Credit Agreement, Borrower under the Operating Loan, in accordance with the limitations of the Borrowing Base Report, may borrow, repay, and may re-borrow under Section 2.1 of this Credit Agreement;

(iv) The Operating Note. The Operating Loan is evidenced by an April 11, 2022 \$40,000,000.00 Promissory Note (Operating Loan) executed by Borrower and made payable to Lender's order and as the same may from time to time be renewed, amended, modified, extended, or restated, together with all substitutions therefor and any replacements thereof (the "**Operating Note**");

(v) Letter of Credit Sub-feature. As a sub-feature of the Operating Loan, Lender agrees from time to time during the term of the Operating Note to issue irrevocable letters of credit for the account of Borrower (each an "**Operating Loan Letter of Credit**" and collectively the "**Operating Loan Letters of Credit**"); provided however, that the aggregate drawn amount of the Operating Loan Letters of Credit shall not at any time exceed \$3,000,000.00. The form and substance of the Operating Loan Letters of Credit, and of any renewal thereof, will be subject to approval by Lender, in its sole discretion. Each Operating Loan Letter of Credit will be issued for a term not to exceed one year; provided however, that no Operating Loan Letter of Credit will have an expiration date subsequent to the maturity date of the Operating Note. Each Operating Loan Letter of Credit, and of any renewal thereof, will be subject to the additional terms and conditions of the letter of credit agreements, applications, and any related documents required by Lender in connection with the issuance thereof. In addition, in connection with each Operating Loan Letter of Credit, and of any renewal thereof, that is issued by Lender, Borrower will be required to pay to Lender a fee equal to 2% of the maximum amount of Lender's obligation under the issued Operating Loan Letter of Credit. Lender's issuance of an Operating Loan Letter of Credit will result in a reduction in the amount available for advance under the Operating Note in an amount equal to Lender's committed amount under each such Operating Loan Letter of Credit, that is, the amount of all issued Operating Loan Letters of Credit will be reserved under the Operating Note and will not be available for borrowings hereunder.

(vi) Prepayment. Subject to the terms of the Operating Note, any interest rate hedge or swap agreement, or any other fixed rate conversion agreement between Borrower and Lender that affects the Operating Note, the terms of which shall control, the Operating Note may be prepaid in any amount at any time prior to maturity without premium or penalty. Any prepayment will be applied first toward the payment of the interest accrued but unpaid on the Operating Note, then toward the outstanding principal thereof. Lender's records will be prima facie evidence of all amounts owing on the Operating Note absent manifest error;

(vii) Payment. Borrower will pay principal and interest on the unpaid, un-matured principal amounts outstanding from time to time on the Operating Loan as set forth in the Operating Note, as the same may from time to time be renewed, amended, modified, extended, or restated, together with all substitutions therefor and any replacements thereof; and

(viii) Security. Borrower's promise to pay the Operating Note is secured by liens, security interests, and encumbrances against all property of Borrower or others, against which Lender has been or will be granted a lien by this Credit Agreement or by any of the Collateral Documents. Borrower hereby grants to Lender a lien against the Collateral to secure payment of Obligations and indebtedness to Lender including without limitation the unpaid balance of the Operating Note.

2.2 Holdco Operating Loan. Subject to the terms and conditions set forth in this Credit Agreement and in the other Loan Documents, Lender has agreed to advance funds to Borrower from time to time pursuant to a \$30,000,000.00 revolving credit facility to finance (a) the working capital needs and general business operations of Rabern and Holdco, and (b) Permitted Acquisitions, including, without limitation, the Rabern Acquisition (the “**Holdco Operating Loan**”). Advances under the Holdco Operating Loan, in addition to other conditions set forth in this Credit Agreement (including the limitations of the Holdco Borrowing Base Report as set forth below), are subject to the following terms and conditions:

- (i) Limitation on Advances. The aggregate maximum amount of all advances under the Holdco Operating Loan outstanding at any one time, subject to any other limitation contained in this Credit Agreement may not exceed \$30,000,000.00;
- (ii) Maturity Date. The Holdco Operating Loan matures on April 11, 2024, or at such other date as is agreed to by Lender in any renewal, amendment, modification, extension, or restatement of the below-defined “Holdco Operating Note” or in any renewal, amendment, modification, extension, or restatement thereof;
- (iii) Revolving Feature. Within the limits of Lender’s commitment to advance monies under the Holdco Operating Loan, and subject to all limitations contained in this Credit Agreement, Borrower under the Holdco Operating Loan, in accordance with the limitations of the Holdco Borrowing Base Report, may borrow, repay, and may re-borrow under Section 2.2 of this Credit Agreement;
- (iv) The Holdco Operating Note. The Holdco Operating Loan is evidenced by an April 11, 2022 \$30,000,000.00 Promissory Note (Holdco Operating Loan) executed by Borrower and made payable to Lender’s order and as the same may from time to time be renewed, amended, modified, extended, or restated, together with all substitutions therefor and any replacements thereof (the “**Holdco Operating Note**”);
- (v) Letter of Credit Sub-feature. As a sub-feature of the Holdco Operating Loan, Lender agrees from time to time during the term of the Holdco Operating Note to issue irrevocable letters of credit for the account of Borrower (each a “**Holdco Operating Loan Letter of Credit**” and collectively the “**Holdco Operating Loan Letters of Credit**”); provided however, that the aggregate drawn amount of the Holdco Operating Loan Letters of Credit shall not at any time exceed \$2,500,000.00. The form and substance of the Holdco Operating Loan Letters of Credit, and of any renewal thereof, will be subject to approval by Lender, in its sole discretion. Each Holdco Operating Loan Letter of Credit will be issued for a term not to exceed one year; provided however, that no Holdco Operating Loan Letter of Credit will have an expiration date subsequent to the maturity date of the Holdco Operating Note. Each Holdco Operating Loan Letter of Credit, and of any renewal thereof, will be subject to the additional terms and conditions of the letter of credit agreements, applications, and any related documents required by Lender in connection with the issuance thereof. In addition, in connection with each Holdco Operating Loan Letter of Credit, and of any renewal thereof, that is issued by Lender, Borrower will be required to pay to Lender a fee equal to 2% of the maximum amount of Lender’s obligation under the issued Holdco Operating Loan Letter of Credit. Lender’s issuance of a Holdco Operating Loan Letter of Credit will result in a reduction in the amount available for advance under the Holdco Operating Note in an amount equal to Lender’s committed amount under each such Holdco Operating Loan Letter of Credit, that is, the amount of all issued Holdco Operating Loan Letters of Credit will be reserved under the Holdco Operating Note and will not be available for borrowings hereunder.
- (vi) Prepayment. Subject to the terms of the Holdco Operating Note, any interest rate hedge or swap agreement, or any other fixed rate conversion agreement between Borrower and Lender that affects the Holdco Operating Note, the terms of which shall control, the Holdco Operating Note may be prepaid in any amount at any time prior to maturity without premium or penalty. Any prepayment will be applied first toward the payment of the interest accrued but unpaid on the Holdco Operating Note, then toward the outstanding principal thereof. Lender’s records will be prima facie evidence of all amounts owing on the Holdco Operating Note absent manifest error;
- (vii) Payment. Borrower will pay principal and interest on the unpaid, un-matured principal amounts outstanding from time to time on the Holdco Operating Loan as set forth in the Holdco Operating Note, as the same may from time to time be renewed, amended, modified, extended, or restated, together with all substitutions therefor and any replacements thereof; and

(viii) Security. Borrower's promise to pay the Holdco Operating Note is secured by liens, security interests, and encumbrances against all property of Borrower or others, against which Lender has been or will be granted a lien by this Credit Agreement or by any of the Collateral Documents. Borrower hereby grants to Lender a lien against the Collateral to secure payment of Obligations and indebtedness to Lender including without limitation the unpaid balance of the Holdco Operating Note.

2.3 Term Loan. Subject to the terms and conditions set forth in this Credit Agreement and in the other Loan Documents, Lender has agreed to advance funds to Borrower pursuant to a \$15,000,000.00 term loan to finance the Rabern Acquisition (the "**Term Loan**"). The advance under the Term Loan, in addition to other conditions set forth in this Credit Agreement, is subject to the following terms and conditions:

- (i) Limitations on Advance. The aggregate maximum amount of the advance under the Term Loan may not exceed \$15,000,000.00;
- (ii) Maturity Date. The Term Loan matures on October 11, 2029, or at such other date as is agreed to by Lender in any renewal, amendment, modification, extension, or restatement of the below-defined "Term Note";
- (iii) No Revolving Feature. Borrower under the Term Loan may borrow, repay, and may not re-borrow under Section 2.3 of this Credit Agreement;
- (iv) Term Note. The Term Loan is evidenced by an April 11, 2022 \$15,000,000.00 Promissory Note (Term Loan) executed by Borrower and made payable to Lender's order and as the same may from time to time be renewed, amended, modified, extended, or restated, together with all substitutions therefor and any replacements thereof (the "**Term Note**");
- (v) Prepayment. Subject to the terms of the Term Note, any interest rate hedge or swap agreement, or any other fixed rate conversion agreement between Borrower and Lender that affects the Term Note, the terms of which shall control, the Term Note may be prepaid in any amount at any time prior to maturity without premium or penalty. Any prepayment will be applied first toward the payment of interest accrued but unpaid on the Term Note, then toward the outstanding principal thereof. Lender's records will be prima facie evidence of all amounts owing on the Term Note absent manifest error;
- (vi) Payment. Borrower will pay principal and interest on the unpaid, un-matured principal amounts outstanding from time to time on the Term Loan as set forth in the Term Note;
- (vii) Security. Borrower's promise to pay the Term Note is secured by liens, security interests, and encumbrances against all property of Borrower or others, against which Lender has been or will be granted a lien by this Credit Agreement or any of the Collateral Documents. Borrower hereby grants to Lender a lien against the Collateral to secure payment of Obligations and indebtedness to Lender including without limitation the unpaid balance of the Term Note; and
- (viii) Loan Fee. Borrower will pay to Lender a loan fee in connection with the Term Loan of \$52,500.00 (the "**Term Loan Fee**").

2.4 Reserved.

2.5 Place for Payments. All payments on the Notes shall be made to Lender at 410 South Taylor, (Box One, Plaza One, Amarillo, Texas 79105), Amarillo, Potter County, Texas, 79101 (or at any other address designated by Lender).

2.6 Borrowing Procedure. Regarding disbursements on the Loans, if Borrower desire to have funds disbursed by wire transfer, Borrower must deliver and Lender must receive written (including notice by electronic mail) or faxed a notice of borrowing request by 11:00 a.m. on any day other than a Saturday, Sunday or other day on which commercial banks are authorized to close by applicable law, or are in fact closed in, Amarillo, Texas (a "**Business Day**"). Borrower agrees to confirm all requests for advances under the Loans in writing (including by electronic mail) and to confirm all such requests for an advance under the Loans in the form and manner requested by Lender.

2.7 Manner and Time of Payment. Borrower hereby authorizes Lender to collect all principal and interest due and owing on the Notes or otherwise due and owing under this Credit Agreement by charging hereunder any deposit account maintained with Lender by Borrower (other than an Excluded Account) for the full amount thereof. Should there be insufficient funds in any such deposit account to pay all such sums in full when due, the full amount of such deficiency will be immediately due and payable by Borrower. In the event such a deficiency occurs, Borrower will immediately pay such deficiency by cash, check, or wire transfer of immediately available funds.

2.8 Borrowing Base. Borrowing by Borrower under the Operating Note, Holdco Operating Note, and any other Borrowing Base Note, is subject to the limitations of the applicable Net Borrowing Base and in that regard, Borrower agrees:

(a) **Borrowing Base Report.** Prior to any borrowings under the Operating Note, the Holdco Operating Note or any other Borrowing Base Notes (other than the borrowing occurring on or about the Effective Date) and, in all events, on a monthly basis and within sixty (60) days from the last day of each month, beginning with April 30, 2022, Borrower will prepare and submit to Lender a written Borrowing Base Report, as applicable, in form and content required by this Credit Agreement or in such other form that is acceptable to Lender, in its Permitted Discretion, certified to be true by Borrower, containing such information as Lender may, from time to time and in its Permitted Discretion, request;

(b) **Mandatory Payment to Establish Compliance with the Applicable Net Borrowing Base.** If at any time from and after the Effective Date, the “**Sub-Total Obligations**” (as defined in the applicable Borrowing Base Report) exceed the “**Sub-Total Borrowing Base**” (as defined in the applicable Borrowing Base Report), Borrower will immediately notify Lender of such fact, and will immediately pay to Lender the amount necessary to reduce the aggregate unpaid balance of the Operating Note and/or the Holdco Operating Note, as applicable, (and any other of the Borrowing Base Notes) to or below the limit imposed by the applicable Borrowing Base Report. Under no circumstances will Lender be required to make advances under any of the Loans if the aggregate unpaid balance of the Operating Note and/or the Holdco Operating Note (and any other of the Borrowing Base Notes) exceed the limits imposed by the applicable Borrowing Base Report, or if there is an existing Event of Default under this Credit Agreement or any of the Loan Documents. If at any time the Sub-Total Obligations exceed the Sub-Total Borrowing Base then to the extent of the excess, a “**Borrowing Base Deficit**” exists and in that event, immediately upon any determination of a Borrowing Base Deficit, whether by notice from Lender or otherwise, Borrower will provide to Lender the plan (formulated by Borrower) to cure such Borrowing Base Deficit. In the event such plan to cure is acceptable to Lender (in its Permitted Discretion); Borrower may be permitted by Lender to cure the Borrowing Base Deficit as set forth in the plan approved by Lender. In the event Borrower’s plan to cure the Borrowing Base Deficit is not acceptable to Lender, Lender will be free to declare an Event of Default and proceed with any available remedy as a result of such Event of Default unless, within one (1) Business Day, Borrower shall make a payment to Lender in an amount equal to the Borrowing Base Deficit. For the avoidance of doubt, each Borrowing Base Deficit shall be determined on a Borrowing Base Note by Borrowing Base Note basis; and

(c) Without limiting Lender’s discretion, and regardless of anything to the contrary contained in this Credit Agreement or any Loan Document, Borrowers acknowledges and agrees that Lender may make such assumptions, considerations and exclusions as it deems appropriate in the exercise of its Permitted Discretion in calculating the Net Borrowing Base. Borrower further hereby acknowledges and agrees that Lender in its evaluation of the Net Borrowing Base as set forth in the applicable Borrowing Base Report may consider such other credit factors as it deems appropriate in the exercise of its Permitted Discretion and based upon that discretion may make a redetermination of such Net Borrowing Base. Promptly following any redetermination by Lender of a Net Borrowing Base, Lender shall notify Borrower of the amount of such Net Borrowing Base as re-determined, which Net Borrowing Base shall be effective as of the date specified in such notice, and shall remain in effect for all purposes of this Credit Agreement.

III. CONDITIONS PRECEDENT

3.1 Condition Precedent to the Loans. The obligation of Lender to extend the Loans to Borrower as set forth in this Credit Agreement, in addition to all conditions precedent set forth elsewhere in this Credit Agreement, is subject to the condition precedent that each of the following shall have been satisfied on or before the day of the funding of the Loans, all in form and substance satisfactory to Lender:

(a) Entity Documentation. Borrower will have furnished to Lender: (i) documentation authorizing the execution, delivery, and performance of the Loan Documents by Borrower; (ii) certificate of good standing and of existence for Borrower; and (iii) organizational documents, including by-laws, company/operating agreements, and partnership agreements, and all amendments thereto for Borrower;

(b) Loan Documents. Borrower shall have executed and delivered to Lender (or shall have caused such to be executed and delivered to Lender), the Loan Documents, including without limitation the following:

- (i) this Credit Agreement;
- (ii) the Operating Note;
- (iii) the Holdco Note;
- (iv) the Term Note;
- (v) the Borrower's Security Agreement;
- (vi) any Subordination Agreement required by Lender;
- (vii) any additional Collateral Documents requested by Lender; and
- (viii) any resolutions or other documentation requested by Lender;

(c) Attorneys' Fees and Expenses. Borrower, subject to the limitation set forth in Section 10.1 of this Credit Agreement) will pay to Lender all reasonable out-of-pocket costs and expenses (including, without limitation, attorneys' fees, and appraisal costs) incurred by Lender in connection with this transaction;

(d) Representations and Warranties. All representations and warranties of Borrower contained herein and in the other Loan Documents will be true and correct in all material respects on and as of the date of this Credit Agreement;

(e) Insurance. Borrower will deliver to Lender evidence of Borrower's Insurance;

(f) Appraisals and Collateral Audits. Lender will obtain, at Borrower's cost, such appraisals of the Collateral (including inventory and receivables audits and inspections) as determined in Lender's sole discretion to be necessary to its administration of the Loans. Lender confirms that as of the Effective Date of this Credit Agreement, Lender has obtained such appraisals and collateral audits as it requires;

(g) Current Financial Information. Lender will receive Borrower's current financial statements in a form and of content satisfactory to Lender in its sole discretion. Lender confirms that as of the Effective Date of this Credit Agreement, Lender has received such financial statements as it requires; and

(h) Lien Searches. The results of a Uniform Commercial Code, tax lien or judgment lien searches showing all financing statements and other documents or instruments on file against Borrower with the applicable authority in the jurisdiction of such Person's principal residence, place of business or chief executive office (as applicable) and such other jurisdictions as determined appropriate by Lender are satisfactory to Lender. Lender confirms that as of the Effective Date of this Credit Agreement, Lender has obtained such searches as it requires.

3.2 Condition Precedent to the Advances. The obligation of Lender to make advances under the Loans, subject to any other condition contained elsewhere in this Credit Agreement or the Loan Documents, is subject to the following conditions precedent:

(a) Borrower timely delivers to Lender a request for an advance and at such time no default or Event of Default has occurred and is continuing. It is a condition of any advance under the Loans that all Collateral be free of any lien, security interest, or other encumbrance other than Permitted Liens;

(b) All the Loan Documents are in full force and effect and the representations and warranties of Borrower contained in this Credit Agreement and all other Loan Documents, or which are contained in any document furnished at any time under or in connection herewith or therewith, will be true and correct in all material respects on and as of the date of such advance (except for representations and warranties that expressly relate to an earlier date which must be true and correct in all material respects as of such earlier date);

(c) The outstanding principal balances of the Loans does not exceed the maximum permissible principal balance of each of such Loans and the sum of the outstanding principal balance of any subsequent promissory note executed by Borrower and made payable to Lender's order does not exceed the maximum outstanding principal of such promissory note;

(d) All loan fees, non-use fees, and other commitment fees payable and owing to Lender shall be paid to Lender prior to or simultaneous with any requested advance; and

(e) The amount of any requested advance under the Operating Note or the Holdco Operating Note (and any other of the Borrowing Base Notes) will not result in a Borrowing Base Deficit as determined by the applicable Borrowing Base Report.

IV. SECURITY FOR THE LOANS

4.1 Composition of Collateral. Borrower will execute and deliver to Lender, or cause to be executed and delivered to Lender, the Collateral Documents, including without any limitation, the Security Agreements covering all of Borrower's interests personal property including without any limitation all of Borrower's Inventory, chattel paper, Accounts, Equipment, contract rights, and General Intangibles, all as described with particularity in the Security Agreements, as well as including whatever is receivable or received when any of the foregoing or the proceeds thereof are sold, leased, collected, exchanged or otherwise disposed of, whether such disposition is voluntary or involuntary, including without limitation, all rights to payment, including returned premiums, with respect to any insurance relating to any of the foregoing, and all rights to payment with respect to any claim or cause of action affecting or relating to any of the foregoing (collectively, "**Proceeds**").

4.2 Form of Loan Documents. The Loan Documents will be in form and of a substance satisfactory to Lender and its counsel.

4.3 Cross Collateralized. Any and all of the Collateral that secures payment of portion of Borrower's indebtedness to Lender also secures payment of the remaining portion of Borrower's indebtedness to Lender, and all future obligations of Borrower to Lender.

4.4 Additional Security Documents. Borrower agrees to execute, or cause to be executed, any and all instruments and documents reasonably required by Lender or its counsel and pertinent to the purposes of the Loans contemplated hereunder in order to properly create and perfect the security interests of Lender against the Collateral and reasonably calculated to properly complete documentation of the Loans and the liens, security interests, and encumbrances securing payment thereof as required by this Credit Agreement.

V. REPRESENTATIONS AND WARRANTIES

To induce Lender to enter into this Credit Agreement, Borrower represents and warrants to Lender that:

5.1 Entity Existence, Qualification and Power. Borrower is duly organized or formed, validly existing and in good standing under the applicable laws of its state of organization. Borrower: (a) has all requisite power and authority and all requisite governmental licenses, authorizations, consents and approvals to (i) own its assets and carry on its business and (ii) execute, deliver, and perform their obligations under the Loan Documents to which they are a party; (b) is duly qualified and licensed and in good standing (if applicable) under the applicable laws of each jurisdiction where its ownership, lease or operation of properties or the conduct of their business requires such qualification or license; and (c) is in compliance in all material respects with all applicable law, except, with respect to clauses (b) and (c), where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

5.2 Litigation and Judgments. No actions, suits, or proceedings against or affecting Borrower are pending, or to the knowledge of Borrower, are threatened in writing, in any court or any other governmental agency or department that could reasonably be expected to result in a Material Adverse Effect. Borrower is not in default with respect to any order, writ, injunction, or decree of any court or any governmental department or agency that could reasonably be expected to have a Material Adverse Effect.

5.3 **Taxes.** Borrower has filed or caused to be filed income and other material tax returns (federal, state, and local) required to be filed, and have paid all of its liabilities for income taxes and other material taxes, assessments, governmental charges, and other levies that are due and payable other than those being contested in good faith by appropriate proceedings diligently pursued for which adequate reserves have been established.

5.4 **Compliance with Applicable Laws.** Borrower has complied in all material respects with all laws, rules, regulations, orders, or decrees of all governmental authorities or arbitrators applicable to them or their properties, except where the failure to comply could not reasonably be expected to result in a Material Adverse Effect.

5.5 **Collateral.** Borrower owns or will use the proceeds of any Loan to become the owner of, the Collateral free from any setoff, claim, restriction, lien, security interest or encumbrance except any Permitted Liens.

5.6 **Ownership and Liens.** Borrower has good record and marketable title in fee simple to, or valid leasehold interests in, all real property necessary or used in the ordinary conduct of Borrower's business.

5.7 **Burdensome Obligations.** To Borrower's knowledge, Borrower nor any of the properties of Borrower, are subject to any law or any pending or threatened (in writing) change of law or subject to any restriction under any agreement or instrument to which any Borrower is a party, or by which any of its properties may be subject or bound, which could reasonably be expected to result in a Material Adverse Effect..

5.8 **Borrower's Insurance.** Borrower will at all times carry and maintain or cause to be carried and maintained, at their own expense, the minimum insurance coverage as may be required by any of the Loan Documents (the "**Borrower's Insurance**") including, without limitation, those policies identified on Schedule 5.8. Borrower will deliver evidence to Lender of such Borrower's Insurance, and, to the extent required by Lender, customary loss payable endorsements in favor of Lender.

5.9 **Government Regulation.** Borrower is not subject to regulation under the Public Utility Holding Company Act of 1935, the Federal Power Act, the Interstate Commerce Act (as any of the preceding acts have been amended), the Investment Company Act of 1940 or any other Law which regulates the incurring by it of indebtedness, including, but not limited to, Laws relating to common contract carriers or the sale of electricity, gas, steam, water or other public utility services.

5.10 **Margin Regulations; Investment Company Act.** Borrower has not engaged and will not engage, principally or as one of its important activities, in the business of purchasing or carrying margin stock (within the meaning of Regulation U issued by the FRB), or extending credit for the purpose of purchasing or carrying margin stock.

5.11 **Accounts.** The Accounts and any note receivable of Borrower that arose in the ordinary course of business in a bona fide arm's length transaction, are reflected on Borrower's books and records in accordance with GAAP, and is represented by written invoice or other written document that: (a) was duly executed and delivered to and, to the best knowledge of Borrower, contains no forgeries or unauthorized signatures; (b) are legal, valid, binding, and enforceable against the account debtor in accordance with its terms and provisions; (c) does not violate or conflict with any provision of applicable law; (d) have not been amended or modified in any material respect, unless disclosed to Lender pursuant to any Borrowing Base Report; (e) are not subject to any set-off, counterclaim, or reductions; (f) fully reflect all agreements and understandings with the debtor with respect thereto; (g) are assignable and has been duly assigned to Lender in accordance with the terms and provisions hereof and thereof; and (h) are maintained at the chief executive offices of Borrower (or at such other offices as may have been specified in a notice to Lender) in a file and location that would be readily identifiable by anyone examining the accounts of Borrower. Borrower's reserve for uncollectible accounts and notes is adequate in Borrower's judgment to fully cover current and future uncollectible accounts and notes.

5.12 **Patriot Act.** All capitalized words and phrases and all defined terms used in the USA Patriot Act of 2001, 107 Public Law 56 (October 26, 2001) (the "**Patriot Act**") and in other statutes and all orders, rules and regulations of the United States government and its various executive department, agencies and offices related to the subject matter of the Patriot Act, including, but not limited to, Executive Order 13224 effective September 24, 2001, are hereinafter collectively referred to as the "**Patriot Rules**" and are incorporated into this Section. Borrower

represents and warrants to Lender that neither it nor any of its principals, shareholders, members, partners, or Affiliates, as applicable, is a Person named as a Specially Designated National and Blocked Person (as defined in Presidential Executive Order 13224) and that it is not acting, directly or indirectly, for or on behalf of any such Person. Borrower further represents and warrants to Lender that Borrower and its principals, shareholders, members, partners, or Affiliates, as applicable, are not, directly or indirectly, engaged in, nor facilitating, the transactions contemplated by this Credit Agreement on behalf of any Person named as a Specially Designated National and Blocked Person. Borrower hereby agrees to defend, indemnify and hold harmless Lender from and against any and all claims, damages, losses, risks, liabilities, and expenses (including reasonable attorneys' fees and costs) arising from or related to any breach of the foregoing representations and warranties.

5.13 **Deposit Accounts.** From and after the date that is six (6) months from the Effective Date (which date may be extended in Lender's discretion), Borrower agrees to maintain deposit and operating accounts (other than any Excluded Account) with Lender, except as permitted by Lender.

VI. AFFIRMATIVE COVENANTS

Borrower covenants and agree that so long as the Borrower's Obligations to Lender or any part thereof have not been paid in full (other than contingent indemnification obligations pursuant to which no claim has been asserted), or Lender has any commitment to make Loans or disbursements under this Credit Agreement, Borrower will perform and observe the following positive covenants:

6.1 **Reporting Requirements.** Borrower will cause to be delivered to Lender:

(a) **Borrower's Annual Financial Statements and Tax Returns.** As soon as available, but in no event later than one hundred twenty (120) days after the end of each year, Borrower's consolidated financial statements resulting from the closing of Borrower's books as of the end of each year, which statements are audited by a certified public accountant reasonably satisfactory to Lender (the "**Audited Annual Statements**"). The first Audited Annual Statements required hereby will consist of Borrower's audited financial statements for the year ending December 31, 2021. The Audited Annual Statements must be: (a) prepared to contain an unqualified opinion of such certified public accountant that such statements present fairly the consolidated financial position of the Borrower and any Subsidiaries as of the dates thereof and the results of operations of such entities on a consolidated basis for the periods then ending; (b) prepared in accordance with GAAP; (c) prepared in reasonable detail; (d) prepared to include statements of operations including retained earnings and cash flows, a balance sheet as of the last day of the applicable year, income statement and cash flow statements, setting forth in comparative form figures for the preceding reporting period, as well as all supporting schedules relating thereto; and (e) certified as correct by an authorized Person of Borrower. Within thirty (30) days following the date on which Borrower files any tax returns, but in no event later than October 31, of such tax year, copies of the completed tax returns along with all supporting schedules and each request for extension of time to file such tax return must be delivered to Lender;

(b) **Borrower's Monthly Financial Statements.** As soon as available and in any event within sixty (60) days following the last day of each month (except December of each year), Borrower will deliver to Lender a copy of Borrower's internally prepared financial statements (the "**Monthly Financial Statements**"). The first Monthly Financial Statements required by this Credit Agreement will consist of the financial statements for the month ending April 30, 2022. The Monthly Financial Statements must be: (i) prepared in a form that is reasonably satisfactory to Lender; (ii) prepared in accordance with GAAP; and (iii) prepared to include a balance sheet as of the last day of the applicable month, a statement of income, as well as all supporting schedules relating thereto, including specifically an A/R Aging Report and an Inventory Report. In addition, the Monthly Financial Statements must be certified as correct by an authorized Person of Borrower;

(c) **Annual Covenant Compliance Report.** On an annual basis, on March 15 of each year, beginning with April 11, 2022, a certificate of Borrower's chief financial officer, treasurer or the equivalent: (i) stating and evidencing Borrower's compliance (including reasonable detail of the calculations required to establish such compliance) with the financial and operational covenants of Article VII of this Credit Agreement; and (ii) stating whether there exists on the date of such certificate any Event of Default and, if any Event of Default then exists, setting forth the details thereof and the action which Borrower is taking or propose to take with respect thereto (the "**Compliance Certificate**"). The Compliance Certificate will be substantially in the form of the annexed **Exhibit "A"** or in such other form as requested by Lender;

(d) Monthly Borrowing Base Reports. On a monthly basis and within sixty (60) days from the last day of each month, beginning April 30, 2022, Borrower will deliver to Lender a “**Borrowing Base Report**” reflecting the amount available for advance under the Operating Note and the Holdco Operating Note (and under the other any other Borrowing Base Note). All determinations in connection with the Borrower’s Borrowing Base Reports will be originally made by Borrower and certified to Lender. Lender, however, will have the final right to review and adjust, in its Permitted Discretion, any such determination, including, without limitation, adjustment of any specific factor or factors that relate to the amount of the Borrower’s Net Borrowing Bases or to any categories in the Borrowing Base Reports. The Borrowing Base Reports will be in such form as requested by Lender. Along with each Borrowing Base Report, Borrower will submit to Lender the most recent A/R Aging Report, Inventory Report, and such other and further information as requested by Lender. The Borrowing Base Report with respect to the Operating Note will be substantially in the form of the annexed Exhibit “B-1” or in such other form as requested by Lender, and the Borrowing Base Report with respect to the Holdco Operating Note will be substantially in the form of the annexed Exhibit “B-2” or in such other form as requested by Lender;

(e) Inventory and Finished Goods Report. On a monthly basis and within sixty (60) days from the last day of each month, beginning April 30, 2022, Borrower will deliver to Lender an “**Inventory Report**” in a form that is in all respects reasonably acceptable to Lender including without limitation a schedule of all of Borrower’s raw materials, works in progress, and Inventory (including Finished Goods) and Borrower’s valuation of such raw materials, works in progress and Inventory;

(f) Account Receivable Aging Report. On a monthly basis and within sixty (60) days from the last day of each month, beginning April 30, 2022, Borrower will deliver to Lender an “**A/R Aging Report**” in a form that is in all respects reasonably acceptable to Lender that details all of Borrower’s accounts and notes receivable from Borrower’s sale and financing of its Inventory, ages all such accounts receivable, and details “Eligible Accounts Receivables” (as defined in the Addendum to the Borrowing Base Report) of Borrower;

(g) Reserved;

(h) Reserved;

(i) Notice of Litigation. Promptly after the commencement thereof, notice of all actions, suits, investigations and proceedings before any governmental authority or arbitrator affecting Borrower that could reasonably be expected to result in a Material Adverse Effect;

(j) Notice of Default/Material Adverse Effect. Immediately upon Borrower obtaining knowledge of the occurrence of any Event of Default, Borrower will deliver to Lender written notice setting forth the details of the Event of Default and the action that Borrower has taken and proposes to take with respect thereto. Promptly upon Borrower obtaining knowledge of the occurrence of any event occurring after the Effective Date that would be reasonably expected to have a “Material Adverse Effect”, Borrower will deliver to Lender written notice of the Material Adverse Effect and that action that Borrower has taken or proposes to take with respect thereto. The term “**Material Adverse Effect**” means a material adverse effect on (A) the financial condition, operations, business or assets of the Borrower taken as a whole; (B) the ability of the Borrower (taken as a whole) to perform any material obligation of it under any Loan Document to which it is a party, or (C) the material rights and remedies of Lender under the Loan Documents; provided, however, that none of the following shall constitute, or shall be considered in determining whether there has occurred, and no event, circumstance, change or effect resulting from or arising out of any of the following shall constitute, a Material Adverse Effect: (A) the failure, in and of itself, of the Borrower to meet any published or internally prepared estimates of revenues, earnings or other financial projections, performance measures or operating statistics; and (B) a decline in the price, or a change in the trading volume, of Manitex International’s common stock on any national stock exchange; and

(k) Other Information. At any time deemed necessary by Lender, Borrower agrees promptly to provide Lender with any other information that Lender reasonably requests, including without limitation such other information regarding the business, property (including Collateral) or financial condition of Borrower.

6.2 Taxes and Other Liens. Borrower will pay before becoming delinquent: (a) all taxes, levies, assessments, and governmental charges imposed on its income or profits or any of its property (specifically including the Collateral) that are material in amount (either individually or in the aggregate); and (b) all claims of any kind that, if unpaid, might result in a creation of lien upon the Collateral; provided, however, that Borrower will not be required to pay or discharge any such tax, levy, assessment, governmental charge or claim that is being contested in good faith by appropriate proceedings diligently pursued and adequate reserves have been established by Borrower.

6.3 Books and Records. Borrower will at all times maintain accurate books and records covering the Collateral.

6.4 Collateral. Borrower will: (a) promptly furnish Lender any information with respect to the Collateral that is reasonably requested by Lender; (b) promptly furnish Lender or its representatives with copies of all records relating to the Collateral that are reasonably requested by Lender; and (c) promptly furnish Lender or its representatives such information as Lender may reasonably request to identify the Collateral, at the time and in the form requested by Lender.

6.5 Inspection Rights. At any time and from time to time, Borrower will permit representatives and independent contractors of Lender to: (a) to visit and inspect any of Borrower's properties and places of business; (b) examine, copy, and make extracts from Borrower's books and records; (c) to discuss Borrower's affairs, finances, and accounts with Borrower's officers and independent public accountants; and (d) to inspect and evaluate any and all Collateral. Borrower agrees to make available to Lender's duly authorized representatives and independent contractors the necessary records relating to the Collateral in sufficient detail for Lender to make an accurate assessment of the location, value, quantity, and quality of the Collateral. In addition, Borrower agrees to provide to Lender's duly authorized representatives and independent contractors any other meaningful information requested within reason will be provided to Lender on a timely basis. Such inspections will be at Borrower's expense (but not at Borrower's expense more than twice during any twelve (12) month period) and at such reasonable times during normal business hours upon advance notice to the Borrower, but without interruption of Borrower's business operations; provided, however, that unless an Event of Default exists, such inspections shall not take place more than two (2) times in any twelve (12) month period; provided, further, that when any Event of Default exists the Lender (or any of its representatives or independent contractors) may do any of the foregoing at the expense of the Borrower (without regard to the limitations on the Borrower's obligation to pay such costs preceding this proviso) at any time during normal business hours and without advance notice.

6.6 Compliance with Applicable Laws. Borrower will comply in all material respect with all applicable laws (including, without limitation, all environmental laws), except whether the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

6.7 Additional Acts. In addition to the acts required herein and contemplated to be performed, executed and/or delivered by Borrower, Borrower hereby agrees, at any time, and from time to time, to perform, execute and/or deliver to Lender, any and all such further acts, additional instruments, or further assurances as may be necessary or proper to: (a) correct any errors in this Credit Agreement or any other instrument relating thereto; (b) assure Lender a valid first lien and first perfected security interest under the Collateral Documents; (c) create, perfect, preserve, and maintain the liens and security interests created or intended to be created by the Collateral Documents; and (d) provide the rights and remedies to Lender granted or provided for by the Collateral Documents and Loan Documents.

6.8 Maintenance of Records. Borrower will keep adequate records and books of account concerning the finances, properties, and operations of Borrower. Borrower will maintain a system of accounting in accordance with GAAP.

6.9 Preservation of Existence, etc. Borrower will: (a) preserve, renew and maintain in full force and effect their legal existence and good standing under the applicable laws of the jurisdiction of its organization; (b) take all reasonable action to maintain all rights, privileges, permits, licenses and franchises necessary or desirable in the normal conduct of their business; and (c) preserve or renew all of their registered patents, trademarks, trade names and service marks, except, with respect to clauses (b) and (c), where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

6.10 Maintenance of Properties. Borrower will: (a) maintain, preserve and protect all of their material properties and Equipment necessary in the operation of the Borrower's business in good working order and condition, ordinary wear and tear excepted; and (b) make all necessary repairs thereto and renewals and replacements thereof, except where the failure to do so could not reasonably be expected to result in a Material Adverse Effect.

6.11 **Other Debts and Liens.** Borrower hereby agrees that any and all indebtedness and any and all security interests existing in connection with any indebtedness or other Obligations of Borrower to any Affiliate or Subsidiary of Borrower (other than a Borrower), whether now existing or arising in the future, will at all times be inferior and subordinate to Borrower's Obligations to Lender (and all security interests securing payment thereof). Upon Lender's request, with respect to such subordinate indebtedness, Borrower will execute, or cause to be executed, such Subordination Agreements as required by Lender in its sole discretion (each is referred to herein as an "**Affiliate Subordination Agreement**" and collectively, the "**Affiliate Subordination Agreements**").

VII. FINANCIAL AND OPERATIONAL COVENANTS

Borrower covenants and agree that so long as the Borrower's Obligations to Lender or any part thereof have not been paid in full (other than contingent indemnification obligations pursuant to which no claim has been asserted), or Lender has any commitment to make Loans or disbursements under this Credit Agreement, unless Lender otherwise consents in writing, Borrower covenants and agrees to the following:

7.1 **Debt Service Coverage Ratio.** Borrower will maintain at all times a Debt Service Coverage Ratio of at least 1.25:1.00 measured on the last day of each calendar quarter, beginning June 30, 2022 and each measurement will be based on a rolling 12-month basis. The term "**Debt Service Coverage Ratio**" means the ratio determined by dividing EBITDA by Actual Debt Service. The term "**EBITDA**" means Borrower's (i) net income after taxes for such period (excluding any after-tax gains or losses on the sale of assets (other than the sale of inventory in the ordinary course of business) and excluding other after-tax extraordinary gains or losses), plus (ii) tax refunds paid to Borrower, plus (iii) consolidated interest expense of Borrower (including all imputed interest on capital leases) (whether paid or accrued), plus (iv) income tax expense (whether paid or accrued), plus (v) depreciation, plus (vi) amortization (including amortization of goodwill, debt issuance costs and amortization and any non-cash impairment of intangibles) for such period, plus (vii) any fees, expenses or other costs incurred in connection with Permitted Acquisitions, issuances of Capital Securities, issuances of debt, dispositions of assets or Subsidiaries, investments and other transactions permitted pursuant to this Credit Agreement (in each case, whether or not consummated), plus (viii) any other one-time or unusual charges or gains which have been subtracted in calculating net income after taxes (including stock-based compensation), plus (ix) severance and one-time compensation payments for such period paid to officers or employees of Borrower, plus (x) fees and expenses paid to Lender in connection with the Loan Documents limited to the Term Loan Fee and all transaction costs and expenses of Lender, plus (xi) fees and expenses incurred by Borrower in connection with the Loan Documents and the transactions contemplated thereby, plus (xii) each legal settlement paid by Borrower in excess of \$100,000.00 in the aggregate, plus (xiii) the profit and loss impact of any foreign currency exposure in an amount not to exceed \$750,000.00 during any 12-month period. The term "**Actual Debt Service**" means, for Borrower, the sum, during the preceding year, of scheduled principal payments on long-term debt and subordinated debt, total interest paid, and total capital lease obligations paid. For the avoidance of doubt in this Section 7.1, the term "Borrower" shall include all Parents, Subsidiaries, and Affiliates of Borrower, whether domestic or international, including without limitation, the Specified Subsidiaries.

7.2 **Minimum Net Worth.** Borrower's Net Worth must be not less than \$80,000,000.00 measured as of the last day of each calendar quarter, beginning June 30, 2022. The term "**Net Worth**" means the sum of all of Borrower's assets (including without limitation (i) intangible assets and (ii) subordinated debt with respect to which a subordination agreement has been executed by Lender) less the value of all Borrower's liabilities. For the avoidance of doubt in this Section 7.2, the term "Borrower" shall only include all Parents, Subsidiaries, and Affiliates of Borrower that are organized under the jurisdiction of the United States of America (i.e. excluding the Specified Subsidiaries).

VIII. NEGATIVE COVENANTS

Borrower covenants and agree that so long as the Borrower's Obligations to Lender or any part thereof have not been paid in full (other than contingent indemnification obligations pursuant to which no claim has been asserted), or Lender has any commitment to make Loans or disbursements under this Credit Agreement, Borrower will observe the following negative covenants:

8.1 **Limitation on Liens.** Without Lender's consent, which will not be unreasonably withheld, conditioned or delayed, Borrower will not incur, create, assume, permit or suffer to exist any lien upon the Collateral, whether now owned or hereafter acquired, except for Permitted Liens.

8.2 Acquisitions, Mergers, etc. Without Lender's consent, which will not be unreasonably withheld, conditioned or delayed, Borrower will not become a party to a merger or consolidation, or purchase or otherwise acquire all or a substantial part of the assets of any Person or any shares or other evidence of beneficial ownership of any Person, nor will Borrower dissolve, liquidate, or cease operations, except for (i) Permitted Acquisitions and (ii) any merger or consolidation of or by (x) any Borrower with or into any other Borrower, or (y) any wholly-owned Subsidiary into a Borrower so long as such merger or consolidation does not result in a Material Adverse Effect.

8.3 Disposition of Assets. Without Lender's prior written consent, which will not be unreasonably withheld, conditioned or delayed, Borrower will not allow any of the Collateral to be sold, leased, exchanged, assigned, transferred, or otherwise conveyed, except for Permitted Dispositions.

8.4 Debt. Without the prior written consent of Lender, which will not be unreasonably withheld, conditioned or delayed, Borrower will not create, incur, assume, or suffer any indebtedness to exist, except for:

- (a) Obligations and indebtedness payable to Lender;
- (b) debt secured by liens permitted by clause (f) of the definition of "Permitted Liens", and refinancings and extensions of any such debt, provided that (i) such debt when incurred shall not exceed the purchase price of the asset(s) financed, and (ii) no such debt shall be refinanced for a principal amount in excess of the principal balance outstanding thereon at the time of such refinancing;
- (c) other purchase money financing of Equipment for use in Borrower's business provided such financing is not in excess of \$1,000,000.00 in the annual aggregate;
- (d) indebtedness to any Person that pursuant to a Subordination Agreement to be entered into by and among Lender and others is subordinate to Borrower's Obligations to Lender;
- (e) unsecured trade accounts payable to trade creditors incurred in the ordinary course of business;
- (f) hedging obligations for bona fide hedging purposes and not for speculation;
- (g) unsecured debt described on Schedule 8.4 and refinancings and extensions of any such unsecured debt if the representations, warranties, covenants, events of default and other material terms and conditions thereof are not materially less favorable to the obligor thereon or to the Lender than the unsecured debt being refinanced or extended, and the average life to maturity thereof is greater than or equal to that of the unsecured debt being refinanced or extended, provided, such unsecured debt permitted under this clause (g) shall not (i) include debt of an obligor that was not an obligor with respect to the indebtedness being extended, renewed, or refinanced or (ii) exceed in a principal amount the unsecured debt being renewed, extended or refinanced;
- (h) indebtedness in respect of and in effect on the date hereof set forth on Schedule 8.4 and other capital leases not to exceed \$1,000,000 in the aggregate;
- (i) indebtedness owing to a Person that is a Borrower;
- (j) indebtedness incurred in the ordinary course of business owed to any Person providing property, casualty, liability or other insurance to the Borrower, including to finance insurance premiums, so long as the amount of such indebtedness is not in excess of the amount of the unpaid costs of, and shall be incurred only to defer the cost of, such premiums;
- (k) indebtedness incurred to finance a Permitted Acquisition not to exceed \$500,000.00;
- (l) indebtedness payable to a Specified Subsidiary so long as, before and giving effect to the incurrence of such debt on a pro forma basis, Borrower is in compliance with the financial covenants set forth in Article VII;
- (m) obligations in connection with any Factoring Facility;

- (n) indebtedness of any Person acquired by Borrower pursuant to a Permitted Acquisition;
- (o) indebtedness arising from judgments or decrees not deemed to be a Default or Event of Default; and
- (p) other unsecured debt so long as, before and giving effect to the incurrence of such debt on a pro forma basis, Borrower is in compliance with the financial covenants set forth in Article VII.

8.5 International Cash Transfers. Without the prior written consent of Lender, which will not be unreasonably withheld, conditioned or delayed, Borrower will not utilize in excess of 50% of the cash balance advanced under the Operating Note for Borrower's or any Subsidiary's international businesses for trade or operating purposes.

8.6 Distributions. Without Lender's consent, which will not be unreasonably withheld, conditioned or delayed, Borrower will not: (a) declare, make, or pay any distribution, whether in cash, any other property or assets, or obligations of Borrower, to any of Borrower's shareholders; (b) [omitted]; or (c) make any other distributions to its officers, directors, or members by reduction of capital or otherwise in respect of their existing Capital Securities in any of the Borrower, other than:

- (i) each Borrower other than Manitex International may pay cash distributions to its Parent; and
- (ii) each Borrower may declare and make distributions payable in the Capital Securities of such Borrower, provided that the issuance of such Capital Securities does not otherwise violate the terms of this Credit Agreement and no Default or Event of Default has occurred and is continuing at the time of making such distribution or would result from the making of such distribution; provided, however, that such Capital Securities shall not require any preferred return payable in cash or contain any put or similar provisions requiring the repurchase of such Capital Securities by Manitex International.

8.7 Capital Expenditures. Without Lender's consent, which shall not be unreasonably withheld, conditioned or delayed, Borrower will not incur, nor will Borrower permit, any capital expense, excluding capital expenses incurred for the purchase of equipment or rolling stock to be used in Borrower's business, in excess of \$2,500,000.00.

8.8 Transactions with Affiliates. Except as set forth on Schedule 8.8, without Lender's consent, which will not be unreasonably withheld, conditioned or delayed, Borrower will not enter into any transaction, including, without limitation, the purchase, sale, or exchange of property or the rendering of any service with any Affiliate of Borrower or permit any Affiliate to enter into any transaction, including, without limitation, the purchase, sale, or exchange of property or the rendering of any service with any Affiliate, except transactions in the ordinary course of and pursuant to the reasonable requirements of the Borrower's or the Affiliate's business and upon fair and reasonable terms no less favorable to Borrower or the Affiliate than it would obtain in a comparable arms-length transaction with a Person not an Affiliate of Borrower, other than:

- (i) advances to employees, officers and directors of a Borrower for travel and other expenses arising in the ordinary course of such Borrower's business;
- (ii) loans to officers and employees in an aggregate principal amount not to exceed \$500,000 at any time outstanding, so long as the proceeds of such loans (a) constitute travel advances and employee relocation loans and other employee loans and advances in the ordinary course of business, or (b) are used by such officers and employees to purchase equity interests in a Borrower;
- (iii) intercompany loans permitted by Section 8.4;
- (iv) repurchase of Capital Securities in Manitex International held by employees in amounts necessary to pay applicable withholding taxes;
- (v) transactions with a Specified Subsidiary consistent with past practices;
- (vi) guarantees of indebtedness of a Specified Subsidiary; and
- (vii) down-payments or deposits on purchases incurred in the ordinary course of business.

8.9 Reserved.

8.10 Guaranty. Without Lender's consent, which will not be unreasonably withheld, conditioned or delayed, Borrower will not guarantee, endorse, or otherwise become surety for any obligation of others, except by endorsement of negotiable instruments for the deposit or collection in the ordinary course of business. Notwithstanding the foregoing, Borrower is permitted to guarantee obligations (i) in connection with any Factoring Facility and (ii) of any Specified Subsidiary.

8.11 Speculative Position. Without the prior written consent of Lender, which will not be unreasonably withheld, conditioned or delayed, Borrower will not use any advances under the Loans to purchase, assume, or hold a speculative position in any futures contract.

8.12 Reserved.

8.13 Change of Name. Etc. Without at least 10 days' prior written notice to Lender, Borrower will neither change Borrower's name nor entity status, or use any trade name or engage in any business not reasonably related to, or which is a reasonable expansion or extension of, Borrower's business as presently conducted. Borrower will notify Lender immediately of a change in Borrower's chief executive office or location and a change in any matter warranted or represented by Borrower in this Credit Agreement.

IX. DEFAULT

9.1 Events of Default. Each of the following will be deemed an "Event of Default":

- (a) (i) Borrower fails to pay, when due, any payment of principal payable under the Notes or any other Loan Document or any part thereof, or (ii) Borrower fails to pay, when due, any payment of interest under the Notes or any other Loan Document or any part thereof and such failure continues for five (5) Business Days;
- (b) Any representation, warranty, or certification made or deemed made by Borrower (or any of its respective officers) in any Loan Document or in any certificate, report, notice, or financial statement furnished at any time in connection with any Loan Document is false, misleading, or erroneous in any material respect when made or deemed to have been made (which is not cured or waived within ten (10) Business Days after Borrower's receipt of notice thereof);
- (c) Borrower fails to perform, observe, or comply with any covenant, agreement, or term contained within this Credit Agreement or any other Loan Document, which is not cured within thirty (30) days after the earlier to occur of either (i) the date upon which Borrower has knowledge of such default or (ii) the date upon which notice thereof is given to the Borrower by Lender;
- (d) Any Borrower: (i) applies for or consents to the appointment of, or the taking of possession by, a receiver, custodian, trustee, examiner, liquidator, or the like of itself or of all or a substantial part of its property; (ii) makes a general assignment for the benefit of its creditors; (iii) commences a voluntary case under the United States Bankruptcy Code as now or hereafter in effect; (iv) institutes any proceeding or files a petition seeking to take advantage of any other law relating to bankruptcy, insolvency, reorganization, liquidation, dissolution, winding-up, or composition or readjustment of debts; (v) fails to controvert in a timely and appropriate manner, or acquiesce in writing to, any petition filed against it in an involuntary case under the Bankruptcy Code; (vi) admits in writing its inability to, or be generally unable to pay its debts as the debts become due; or (vii) takes any corporate action for the purpose of affecting any of the foregoing;
- (e) Any Collateral Document for any reason ceases to create a valid and perfected first priority security interest in any of the Collateral purported to be covered thereby;
- (f) Any Loan Document ceases to be in full force and effect; is declared null and void; or the validity or enforceability is contested by Borrower
- (g) Any Subordination Agreement entered into among Lender and a third-party creditor of Borrower ceases to be in full force and effect; is declared null and void; or the validity or enforceability is contested by Borrower;
- (h) Reserved;

(i) Borrower fails to pay or perform any other obligation, liability or indebtedness to any other Person which could reasonably be expected to result in a Material Adverse Effect and such failure continues for 30 days after Borrower's receipt of notice thereof;

(j) The dissolution or termination of all Borrowers' existence (provided that the dissolution or termination of Manitex International shall constitute an Event of Default hereunder whether or not any other Borrower dissolves or terminates its existence);

(k) Reserved;

(l) Reserved;

(m) There occurs a Change of Control; and

(n) There is entered against Borrower one or more final judgments or orders for the payment of money that is not covered by independent third-party insurance as to which the insurer does not unreasonably dispute coverage which would reasonably be expected to result in a Material Adverse Effect.

9.2 Remedies for Defaults. If an Event of Default shall have occurred and be continuing, Lender may, at its option, commence any remedy available under the Loan Documents or applicable law.

9.3 Right and Remedies with Respect to Collateral. In addition, if an Event of Default shall have occurred and be continuing, Lender may, at its option: (a) take possession or control of, store, lease, operate, manage, sell, or instruct any Agent or Broker to sell or otherwise dispose of, all or any part of the Collateral; (b) notify all parties under any account or contract right forming all or any part of the Collateral to make any payments otherwise due to Borrower directly to Lender; (c) in Lender's own name, or in the name of Borrower, demand, collect, receive, sue for, and give receipts and releases for, any and all amounts due under such accounts and contract rights; (d) endorse as the agent of Borrower any check, note, chattel paper, documents, or instruments forming all or any part of the Collateral; (e) make formal application for transfer to Lender (or to any assignee of Lender or to any purchaser of any of the Collateral) of all of Borrower's permits, licenses, approvals, agreements, and the like relating to the Collateral or to Borrower's business; (f) take any other action which Lender deems necessary or desirable to protect and realize upon its security interest in the Collateral; and (g) in addition to the foregoing, and not in substitution therefore, exercise any one or more of the rights and remedies exercisable by Lender under any other provision of this Credit Agreement, under any of the other Loan Documents, or as provided by applicable law. Lender shall not be liable for, nor be prejudiced by, any loss, depreciation, or other damages to the Collateral, unless caused by Lender's willful and malicious act. Lender shall have no duty to take any action to preserve or collect the Collateral.

If an Event of Default shall have occurred and be continuing, Lender shall be entitled to immediate possession of all books and records evidencing any Collateral and it or its representatives shall have the authority to enter upon any premises upon which any of the same, or any Collateral, may be situated and remove the same therefrom without liability. If an Event of Default shall have occurred and be continuing, Lender may surrender any insurance policies in the Collateral and receive the unearned premium thereon. Borrower will be entitled to any surplus and will be liable to Lender for any deficiency. Borrower specifically understands and agrees that any sale by Lender of all or part of the Collateral pursuant to the terms of this Credit Agreement may be effected by Lender at times and in manners that could result in the proceeds of such sale as being significantly and materially less than might have been received if such sale had occurred at different times or in different manners, and Borrower hereby releases Lender and its officers and representatives from and against any and all obligations and liabilities arising out of or related to the timing or manner of any such sale.

9.4 Proceeds. The proceeds from any disposition of the Collateral shall be used to satisfy the following items in the order they are listed: (a) The expenses of taking, removing, storing, repairing, holding, maintaining and selling the Collateral and otherwise enforcing the rights of Lender under the Loan Documents, including any legal costs and reasonable attorneys' fees; (b) The expense of liquidating or satisfying any liens, security interests, or encumbrances on the Collateral which may be prior to the security interest of Lender that Lender, at its option, elects to satisfy; (c) Any unpaid fees, accrued interest and other sums due Lender with respect to Loan Documents, and then the unpaid principal amount of the Loans and any remaining Obligations outstanding; and (d) Any amounts in excess of the foregoing shall be paid to Borrower.

9.5 Deficiency. To the extent the proceeds realized from the disposition of the Collateral shall fail to satisfy any of the foregoing items, Borrower will remain liable to pay any deficiency to Lender.

9.6 Continuing Event of Default. Any Event of Default capable of being remedied will exist and therefore continue until Lender has been provided evidence satisfactory to it that the Event of Default has been remedied. Any Event of Default not capable of being remedied will exist and therefore continue until waived by Lender.

9.7 Selective Enforcement. Lender may elect to selectively, and successively, enforce its rights under the Loan Documents. In the event Lender elects to selectively enforce its rights under any one or more of the Loan Documents or other instruments securing payment of the Notes, the action will not be deemed a waiver or discharge of any other lien or encumbrances securing payment of the Notes until such time as Lender has been paid in full all sums owing to Lender.

9.8 Cumulative Remedies. No failure on the part of Lender to exercise and no delay in exercising any right hereunder will operate as a waiver thereof, nor will any single or partial release by Lender of any right hereunder preclude any other or further right or the exercise thereof or the exercise of any other right provided under the Loan Documents or at law. The remedies herein provided are cumulative and not alternative.

9.9 Waiver of Covenants. At the discretion of Lender, a fee may be charged for any waiver of any covenant provided by this Credit Agreement.

9.10 Performance by Guarantor. It shall not be deemed an Event of Default under this Credit Agreement as to any of the Borrower's Obligations if such Obligations are paid or performed by any Person that is a guarantor of such Obligations.

X. MISCELLANEOUS

10.1 Expenses. Borrower hereby agrees to pay on demand: (a) all reasonable and documented costs and expenses actually incurred by Lender in connection with the preparation, negotiation, execution, and delivery of, this Credit Agreement and the other Loan Documents executed in connection herewith, including, without limitation, the reasonable fees and expenses of legal counsel, advisors, consultants, and auditors for Lender, and Lender agrees that expenses of legal counsel will be limited to \$35,000.00 in connection with the preparation, negotiation, execution and delivery of this Credit Agreement and the other Loan Documents executed in connection herewith; (b) all reasonable and documented costs and expenses actually incurred by Lender in connection with the preparation, negotiation, execution, and delivery of, any and all amendments, modifications, renewals, extensions, and supplements to this Credit Agreement and the other Loan Documents executed in connection with any such amendment, modification, renewal, extension, and supplement; (c) all reasonable and documented costs and expenses actually incurred by Lender in connection with any Event of Default and the enforcement of this Credit Agreement or any other Loan Document, including, without limitation, the fees and expenses of legal counsel, advisors, consultants, and auditors for Lender; (d) all transfer, stamp, documentary, or other similar taxes, assessments, or charges levied by any governmental authority in respect of this Credit Agreement or any of the other Loan Documents (which such costs, expenses, assessments and other charges are included within the foregoing \$35,000.00 cap in subsection (a)); (e) all costs, expenses, assessments, and other charges actually incurred by Lender in connection with any filing, registration, recording, or perfection of any lien or security interest contemplated by this Credit Agreement or any other Loan Document; and (e) all other reasonable and documented costs and expenses actually incurred by Lender (including, without limitation, legal costs, fees and expenses) in connection with any litigation, dispute, suit, proceeding or action related to: (i) this Credit Agreement or any other Loan Document; (ii) the enforcement of Lender's rights and remedies; and (iii) the protection of Lender's interests in bankruptcy, insolvency or other legal proceedings, including, without limitation, all costs, expenses, and other charges incurred in connection with evaluating, observing, collecting, examining, auditing, appraising, selling, liquidating, or otherwise disposing of the Collateral or other assets of Borrower, and Borrower agrees to promptly reimburse Lender for all amounts expended, advanced or incurred by Lender to satisfy any obligation of Borrower under this Credit Agreement or any Collateral Document.

10.2 Lender Not Fiduciary. The relationship between Borrower, on one hand, and Lender, on the other hand, is solely that of debtor and creditor, and Lender has no fiduciary or other special relationship with Borrower, and no term or condition of any of the Loan Documents shall be construed so as to deem the relationship between Borrower and Lender to be other than that of debtor and creditor.

10.3 Equitable Relief. Borrower recognizes that in the event Borrower fails to pay, perform, observe, or discharge any or all of Borrower's Obligations or indebtedness to Lender, any remedy at law may prove to be inadequate relief to Lender. Borrower therefore agrees that Lender shall be entitled to temporary and permanent injunctive relief in any such case without the necessity of proving actual damages.

10.4 No Waiver; Cumulative Remedies. No failure on the part of Lender to exercise and no delay in exercising, and no course of dealing with respect to, any right, remedy, power, or privilege under this Credit Agreement shall operate as a waiver thereof, nor shall any single or partial exercise of any right, remedy, power, or privilege under this Credit Agreement preclude any other or further exercise thereof or the exercise of any other right, remedy, power, or privilege. The rights and remedies provided for in this Credit Agreement and the other Loan Documents are cumulative and not exclusive of any rights and remedies provided by law.

10.5 Successors and Assigns. This Credit Agreement will be binding upon and inure to the benefit of the parties hereto, and the Affiliates of Lender that are owed Obligations and their respective successors and assigns. Borrower may not assign or transfer any of its rights or obligations hereunder without the prior written consent of Lender.

10.6 Survival. All representations and warranties made in any Loan Document or in any document, statement, or certificate furnished in connection with any Loan Document will survive the execution and delivery of the Loan Documents and no investigation by Lender or any closing will affect the representations and warranties or the right of Lender to rely upon them.

10.7 Amendments. No amendment or waiver of any provision of any Loan Document to which Borrower is a party, nor any consent to any departure by Borrower therefrom will in any event be effective unless the same is agreed or consented to in writing by Lender, any participating banks, or associations, and Borrower; and each such waiver or consent will be effective only in the specific instance and for the specific purpose for which given.

10.8 Maximum Interest Rate. (a) No interest rate specified in any Loan Document will at any time exceed the maximum rate of interest allowed by applicable law (the "**Maximum Rate**"). If at any time the interest rate for any Obligation will exceed the Maximum Rate, thereby causing the interest accruing on the Obligation to be limited to the Maximum Rate, then any subsequent reduction in the interest rate for the Obligation will not reduce the rate of interest on the Obligation below the Maximum Rate until the aggregate amount of interest accrued on the Obligation equals the aggregate amount of interest that would have accrued on the Obligation if the interest rate for the Obligation had at all times been in effect; and (b) no provision of any Loan Document will require the payment or the collection of interest in excess of the Maximum Rate. If any excess of interest in this such respect is hereby provided for, or will be adjudicated to be so provided, in any Loan Document or otherwise in connection with this loan transaction, the provisions of this Section will govern and prevail and neither Borrower nor any sureties, guarantor, successors, or assigns of Borrower will be obligated to pay the excess amount of the interest or any other excess sum paid for the use, forbearance, or detention of sums loaned pursuant hereto. In the event Lender ever receives, collects, or applies as interest any such sum, the amount that would be in excess of the maximum amount permitted by applicable law will be applied as a payment and reduction of the principal of the Obligations; and, if the principal of the Obligations has been paid in full, any remaining excess will forthwith be paid to Borrower for their account. In determining whether or not the interest paid or payable exceeds the Maximum Rate, Borrower and Lender will, to the extent permitted by applicable law: (i) characterize any non-principal payment as an expense, fee, or premium rather than as interest; (ii) exclude voluntary prepayments and the effects thereof; and (iii) amortize, prorate, allocate, and spread in equal or unequal parts the total amount of interest throughout the entire contemplated term of the Obligations so that interest for the entire term does not exceed the Maximum Rate.

10.9 Notices. Unless otherwise expressly provided herein, all notices and other communications provided for hereunder shall be in writing (including by electronic mail transmission) and mailed or delivered, to the address or, subject to the last sentence hereof, electronic mail address specified for notices below the signatures hereon or to such other address as shall be designated by such party in a notice to the other parties. All such other notices and other communications shall be deemed to have been given or made upon the earliest to occur of: (a) actual receipt by the intended recipient; or (b) (i) if delivered by hand or courier, when signed for by the designated recipient; (ii) if delivered by mail, three (3) Business Days after deposit in the mail, postage prepaid; and (iii) if delivered by electronic mail (which form of delivery is subject to the provisions of the last sentence below) when delivered; provided, however, that notices and other communications pursuant to Article II shall not be effective until actually received by Lender. Electronic mail and intranet websites may be used only to distribute routine communications, such as financial statements and other information, and to distribute Loan Documents for execution by the parties thereto and may not be used for any other purpose.

10.10 Participations and Assignments.

(a) Borrower may not assign any of its rights, duties or obligations under this Credit Agreement, the other Loan Documents, or the Notes without the prior consent of Lender and any prohibited assignment shall be absolutely void ab initio.

(b) Lender may assign to one or more Eligible Assignees (including, at the option of Lender, any Affiliate or Subsidiary of Borrower) all or a portion of its rights and obligations under this Credit Agreement. Any such assignment will become effective as of the date provided therein upon the execution and delivery to Lender of the assignment agreement and, if applicable, Borrower. Promptly after receipt of an executed assignment agreement, Lender shall send to Borrower a copy of such executed assignment agreement. Upon the effectiveness of any assignment pursuant to this Section, the assignee will become a "Lender" if not already a "Lender" for all purposes of this Credit Agreement and the Loan Documents. The assignor shall be relieved of its obligations hereunder from and after the effective date thereof to the extent of such assignment (and if the assigning Lender (other than Amarillo National Bank) no longer holds any rights or obligations under this Credit Agreement, such assigning Lender shall cease to be a "Lender" hereunder). For the avoidance of doubt, notwithstanding any assignments permitted hereunder, Borrower shall only be required to deal with Amarillo National Bank.

(c) Lender may transfer, grant, or assign participations in all or any part of such Lender's interests hereunder pursuant to this Section to any Person (including, at the option of Lender, any Affiliate or Subsidiary of Borrower). In the case of any such participation, the participant shall not have any rights under this Credit Agreement or any of the Loan Documents (the participant's rights against the granting Lender in respect of such participation to be those set forth in the agreement with such Lender creating such participation), and all amounts payable by Borrower hereunder shall be determined as if such Lender had not sold such participation.

(d) Lender may furnish any information concerning Borrower in the possession of Lender from time to time to permitted assignees and participants (including prospective permitted assignees and participants) and Borrower hereby expressly consents to Lender's disclosure of such information; provided, however, that prospective permitted assignees and participants shall agree to maintain such information in confidence.

(e) Notwithstanding anything in this Credit Agreement to the contrary, Lender may assign and pledge all or any of its interest in the Loans to any Federal Reserve Bank. No such assignment and/or pledge shall release the assigning and/or pledging Lender from its obligations hereunder.

10.11 **Governing Applicable Law; Venue. THIS CREDIT AGREEMENT, THE NOTES, AND THE OTHER LOAN DOCUMENTS SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS AND THE APPLICABLE LAWS OF THE UNITED STATES OF AMERICA WITHOUT REGARD TO ANY CONFLICT OF LAW PRINCIPLES.**

Borrower hereby irrevocably: (a) agrees that any action or proceeding arising out of or in connection with any of the Loan Documents shall be brought in the applicable state court in Potter County, Texas, or in the United States District Court that encompasses such county; (b) submits to the nonexclusive jurisdiction of such courts with respect to any such action or proceeding; and (c) waives any objection it or they may now or hereafter have as to the venue of any such action or proceeding brought in any such court or that any such court is an inconvenient forum.

10.12 **Severability.** Any provision of any Loan Document held by a court of competent jurisdiction to be invalid or unenforceable will not impair or invalidate the remainder of any Loan Document and the effect thereof will be confined to the provision held to be invalid or unenforceable.

10.13 **Headings.** The headings, captions, and arrangements used in this Credit Agreement are for convenience only and will not affect the interpretation of this Credit Agreement.

10.14 Rules of Interpretation. In this Credit Agreement, unless the context indicates otherwise: (a) the singular includes the plural and the plural the singular; (b) words importing any gender include the other gender; (c) any reference to a time of day means local time in Amarillo, Texas; (d) references to “**writing**” include printing, typing, lithography, facsimile reproduction, electronic mail, and other means of reproducing words in a tangible visible form; (e) the words “**approval**” and “**consent**” will be deemed to be followed by the phrase “**which will not be unreasonably withheld, unreasonably conditioned, or unduly delayed.**” except when context otherwise requires; (f) the words “**including**,” “**includes**,” and “**include**” will be deemed to be followed by the words “**without limitation**;” (g) references to Articles, Sections, or Exhibits are to Articles, Sections, or Exhibits of or to this Credit Agreement unless otherwise indicated; (h) references to other documents will include all exhibits and appendices attached to those documents and all subsequent amendments and other modifications to those documents, but only to the extent the amendments and other modifications are not prohibited by the terms of this Credit Agreement; (i) references to Persons include their respective successors and permitted assigns; and (j) captions of Articles and Sections contained in this Credit Agreement are inserted only as a matter of convenience and for reference, and in no way define, limit, extend, describe, or otherwise affect the scope of meaning of this Credit Agreement or the intent of any provision of this Credit Agreement.

10.15 Construction. Borrower and Lender acknowledge hereby that each of them has had the benefit of legal counsel of its own choice and has been afforded an opportunity to review the Loan Documents with its legal counsel and that the Loan Documents will be construed as if jointly drafted by the parties thereto.

10.16 Accounting Terms and Financial Determinations. Unless otherwise specified herein as GAAP, all accounting terms used in any Loan Document will be interpreted, and all account determinations and computations under any Loan Document will be made in accordance with standard accounting procedures customarily used in the Borrower’s industry.

10.17 Independence of Covenants. All covenants under the Loan Documents will be given independent effect so that if a particular action or condition is not permitted by any of the covenants, the fact that it would be permitted by an exception to, or be otherwise within the limitations of, another covenant will not avoid the occurrence of an Event of Default in accordance with the applicable provision if the action is taken or the condition exists.

10.18 Waiver of Damages. To the fullest extent permitted by applicable Laws, Borrower hereby knowingly, voluntarily, and intentionally waives any right they may have to claim or recover any punitive, SPECIAL, INDIRECT, or consequential damages, or any damages other than, or in addition to, direct or actual damages. In regard to such waiver, Borrower hereby acknowledges that as a result of such waiver it hereby agrees knowingly, voluntarily, and intentionally to not assert, any claim against Lender, on any theory of liability, for recovery of any punitive, SPECIAL, INDIRECT, or consequential damages, or any damages other than, or in addition to, direct or actual damages, that in any manner arise out of, in connection with, or as a result of, this Credit Agreement, any other Loan Document or any agreement or instrument contemplated hereby, the transactions contemplated hereby or thereby, including the Notes, or the use of the proceeds thereof.

10.19 Entire Credit Agreement. This written Credit Agreement and the other Loan Documents constitute the entire agreement between Lender and the other parties to the loan documents concerning the subject matter contained in this Credit Agreement and the other Loan Documents and supersede as of the date hereof all prior agreements between Lender and the other parties to the Loan Documents and may not be contracted by evidence of prior, contemporaneous, or subsequent oral agreements of the parties. There are no unwritten oral agreements among the parties.

10.20 Waiver of Jury Trial. TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, EACH OF THE PARTIES HERETO HEREBY IRREVOCABLY AND EXPRESSLY WAIVES ALL RIGHT TO A TRIAL BY JURY IN ANY ACTION, PROCEEDING, OR COUNTERCLAIM (WHETHER BASED UPON CONTRACT, TORT, OR OTHERWISE) ARISING OUT OF OR RELATING TO ANY OF THE LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED THEREBY OR THE ACTIONS OF LENDER IN THE NEGOTIATION, ADMINISTRATION, OR ENFORCEMENT THEREOF.

10.21 Imaging of Loan Documents. Borrower understands and agrees that (a) Lender’s document retention policy may involve the electronic imaging of executed Loan Documents and the destruction of the paper originals, and (b) Borrower waives any right that they may have to claim that the imaged copies of this Credit Agreement, any amendment thereto, or of any of the other Loan Documents are not originals.

10.22 Notice of Final Agreement. THIS WRITTEN CREDIT AGREEMENT AND THE LOAN DOCUMENTS EXECUTED IN CONNECTION HERewith REPRESENT THE FINAL CREDIT AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.

10.23 Controlling Document. To the extent that a Loan Document conflicts with or is in any way incompatible with this Credit Agreement, the terms of this Credit Agreement shall control, and if this Credit Agreement does not specifically address an issue, then the Loan Document that deals most specifically with such issue shall control.

10.24 Patriot Act Notice. Lender hereby notifies Borrower that pursuant to the requirements of the Patriot Act, it is required to obtain, verify and record information that identify Borrower, which information includes the names and addresses of Borrower and other information that will allow Lender to identify Borrower in accordance with the Patriot Act.

10.25 Counterparts. This Credit Agreement (and any other of the Loan Documents executed in connection with Credit Agreement) may be separately executed in any number of counterparts, each of which will be an original, but all of which, taken together, will be deemed to constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this Credit Agreement by facsimile machine, electronic mail, or other electronic transmission will be considered for all purposes as a delivery of an original counterpart signature page and will be effective as delivery of a manually executed counterpart of this Credit Agreement. This Credit Agreement will become effective when it shall have been executed by each party hereto.

(Counterpart signature pages appear as the following pages)

Joseph Doolan's Counterpart Signature Page

This Credit Agreement is executed and intended to be effective as of the Effective Date.

BORROWER:

MANITEX INTERNATIONAL, INC., a Michigan corporation

By: /s/ Joseph Doolan
Joseph Doolan, Chief Financial Officer

MANITEX, INC., A Texas Corporation

By: /s/ Joseph Doolan
Joseph Doolan, Treasurer

MANITEX, LLC, a Delaware limited liability company

By: /s/ Joseph Doolan
Joseph Doolan, Treasurer

RABERN HOLDCO, INC., a Delaware corporation

By: /s/ Joseph Doolan
Joseph Doolan, Treasurer

RABERN RENTALS, LLC, a Delaware limited liability company

By: /s/ Joseph Doolan
Joseph Doolan, Treasurer

Address for Notice:

9725 Industrial Drive
Bridgeview, Illinois 60455
Attention: Joe Doolan, CFO
Tel: 708-237-2066
Email: jdoolan@manitex.com

With a copy to:

Bryan Cave Leighton Paisner LLP
211 N Broadway, Suite 3600
Attention: Joe Robertson
Tel: 314-259-2031
Email: joe.robertson@bclplaw.com

(Counterpart signature pages continue on the following page)

David Langevin's Counterpart Signature Page

This Credit Agreement is executed and intended to be effective as of the Effective Date.

BORROWER:

MANITEX SABRE, INC., a Michigan corporation

By: /s/ David Langevin

David Langevin Executive Chairman

CRANE AND MACHINERY, INC., an Illinois corporation

By: /s/ David Langevin

David Langevin, Executive Chairman

CRANE AND MACHINERY LEASING, INC., an Illinois corporation

By: /s/ David Langevin

David Langevin, Executive Chairman

Address for Notice:

9725 Industrial Drive

Bridgeview, Illinois 60455

Attention: Joe Doolan, CFO

Tel: 708-237-2066

Email: jdoolan@manitex.com

With a copy to:

Bryan Cave Leighton Paisner LLP

211 N Broadway, Suite 3600

St. Louis, Missouri 63102

Attention: Joe Robertson

Tel: 314-259-2031

Email: joe.robertson@bcplaw.com

(Counterpart signature pages continue on the following page)

Lender's Counterpart Signature Page

This Credit Agreement is executed and intended to be effective as of the Effective Date.

LENDER:

AMARILLO NATIONAL BANK, a national banking association

By: /s/ Julio Jauregui

Julio Jauregui, Senior Vice President

Address for Notice:

5300 Bee Caves Road, Building 2

West Lake Hills, Texas 78746

Tel: (512) 502-2907

Email: julio.jauregui@anb.com

(Exhibit "A" appears on the following page)

Exhibit "A"
COMPLIANCE CERTIFICATE

Date: _____

To: Amarillo National Bank, a national banking association

Reference is made to that certain [____], 2022 Commercial Credit Agreement entered into by and among Manitex International, Inc., a Michigan corporation, Manitex Sabre, Inc., a Michigan corporation, Manitex, Inc., a Texas corporation, Manitex, LLC, a Delaware limited liability company, Badger Equipment Company, a Minnesota corporation, Crane and Machinery, Inc., an Illinois corporation, Crane and Machinery Leasing, Inc., an Illinois corporation, Rabern Holdco, Inc., a Delaware corporation, and Rabern Rentals, LLC, a Delaware limited liability company (collectively, the "**Borrower**"), and Amarillo National Bank, a national banking association (the "**Lender**") (as amended, the "**Credit Agreement**"). The capitalized terms used herein are used as defined in the Credit Agreement unless a different definition is given herein.

The undersigned hereby certifies to Lender as of the date hereof that he/she: (a) is authorized by Borrower to submit this Semiannual Compliance Certificate; and (b) the following are true and correct:

1. The period of time covered by this Compliance Certificate is _____ until _____ (the "**Computation Period**").
2. Borrower's Monthly Financial Statements and Audited Annual Statements for the Computation Period (just ended) are attached hereto.
3. Borrower during the Computation Period has delivered to Lender the required Monthly Financial Statements, Borrowing Base Reports, Inventory Reports, A/R Reports, tax returns, and all other information required by Section 6.1 of the Credit Agreement.
4. As of the date hereof, Borrowers has [has not] complied with the financial covenants set forth in the Credit Agreement, as follows:
 - (a) Borrower's Debt Service Coverage Ratio at all times in the 12-month period prior to the end of the current Computation Period has been of at least 1.25:1.00:
 TRUE; FALSE (if False see explanation in paragraph 5 below).
 - (b) Borrower's Minimum Net Worth at the end of the Computation Period measures not less than \$80,000,000.00:
 TRUE; FALSE (if False see explanation in paragraph 5 below).
 - (c) Borrower has made no Distributions during the Computation Period:
 TRUE; FALSE (if False see explanation in paragraph 5 below).
 - (d) Borrower has not during the Computation Period used in excess of 50% of the cash balance advanced under the Operating Note to international businesses for trade or operating purposes:
 TRUE; FALSE (if False see explanation in paragraph 5 below).
5. The undersigned has reviewed and is familiar with the Credit Agreement, and understands the Credit Agreement in all respects, and has made, or has caused to be made under his/her supervision, a detailed review of the transactions and condition (financial and/or otherwise) of Borrowers during the Computation Period and to Borrower's knowledge, Borrowers has performed and observed each of the covenants and conditions of the Credit Agreement and other Loan Documents in all material respects and no Event of Default has occurred or is continuing, except the following: _____

6. The representations and warranties contained in Article V of the Credit Agreement, and the negative covenants contained in Article VIII of the Credit Agreement, as well as all representations, representation, and covenants made by Borrowers or any other Person in any of the other Loan Documents, to Borrower's knowledge are true and correct in all material respects on and as of the date hereof, except to the extent such representations and warranties specifically refer to an earlier date, in which case they are true and correct in all material respects as of such earlier date.

The undersigned has executed this Semiannual Compliance Certificate as of _____.

MANITEX INTERNATIONAL, INC., a Michigan corporation, **MANITEX SABRE, INC.**, a Michigan corporation, **MANITEX INC.**, a Texas corporation, **MANITEX, LLC**, a Delaware limited liability company, **BADGER EQUIPMENT COMPANY**, a Minnesota corporation, **CRANE AND MACHINERY, INC.**, an Illinois corporation, **CRANE AND MACHINERY LEASING, INC.**, an Illinois corporation, **RABERN HOLDCO, INC.**, a

Delaware corporation, and **RABERN RENTALS, LLC**, a Delaware limited liability company

By: _____
_____, Authorized Representative

(Exhibit "B" appears on the following page)

Exhibit "B-1"

BORROWING BASE REPORT

Date: _____

Collateral Description	Amount	Advance	Value
1. Funds in Borrower's Accounts:	\$ _____	100%	\$ _____
2. Eligible Accounts Receivables ("A/R"):			
(a) Total Eligible AR:	\$ _____	85%	\$ _____
3. Raw Materials:	\$ _____	80%	\$ _____
4. Works in Progress:	\$ _____	50%	\$ _____
5. Finished Goods:	\$ _____	75%	\$ _____
6. Sub-Total Borrowing Base (Sum of Lines 1, 2(a), 3, 4, and 5):			\$ _____
<u>Debt Description</u>			
7. Less: Sub-Total Obligations:		<u>Multiple</u>	
(a) Operating Note – P&I outstanding:		100%	\$ _____
(b) Overdrafts in Borrower's Account:		100%	\$ _____
(c) Accounts Payable (U.S. Operations)		50%	\$ _____
(d) CIBC Bank USA Account		100%	\$ _____
8. Net Borrowing Base - (Sub-Total Borrowing Base minus Sub-Total Obligations):			\$ _____
("Borrowing Base Equity" if positive <i>i.e.</i> amount available for advance, and "Borrowing Base Deficit" if negative)			

The undersigned hereby certifies to Lender that this Borrowing Base Report is true and correct in all respects.

MANITEX INTERNATIONAL, INC., a Michigan corporation, **MANITEX SABRE, INC.**, a Delaware corporation, **MANITEX, INC.**, a Texas corporation, **MANITEX, LLC**, a Delaware limited liability company, **BADGER EQUIPMENT COMPANY**, a Minnesota corporation, **CRANE AND MACHINERY, INC.**, an Illinois corporation, **CRANE AND MACHINERY LEASING, INC.**, an Illinois corporation, **RABERN HOLDCO, INC.**, a Delaware corporation, and **RABERN RENTALS, LLC**, a Delaware limited liability company

By _____
 Printed Name: _____
 Title: _____

All determinations in connection with the Borrowing Base Report will be originally made by Borrower and certified to Lender. Lender, however, will have the final right to review and adjust, in its Permitted Discretion, any such determination, including without limitation, adjustment of any specific factor or factors that relate to the amount of the Borrowing Base Equity or to any categories in the Borrowing Base Report.

If at any time from and after the Effective Date, the "**Sub-Total Obligations**" exceed the "**Sub-Total Borrowing Base**", Borrower will immediately notify Lender of such fact, and will immediately pay to Lender the amount necessary to reduce the aggregate unpaid balance of the Operating Note to or below the limit imposed by the Borrowing Base Report. Under no circumstances will Lender be required to make advances under any of the Loans if the aggregate unpaid balance of the Operating Note exceed the limits imposed by the Borrowing Base Report, or if there is an existing Event of Default under this Credit Agreement or any of the Loan Documents. If at any time the Sub-Total Obligations exceed the Sub-Total Borrowing Base then to the extent of the excess, a "**Borrowing Base Deficit**" exists and in that event, immediately upon any determination of a Borrowing Base Deficit, whether by notice from Lender or otherwise, Borrower will provide to Lender the plan (formulated by Borrower) to cure such Borrowing Base Deficit. In the event such plan to cure is acceptable to Lender (in its Permitted Discretion); Borrower may be permitted by

¹ Initially defined terms used in this Borrowing Base Report are defined as set forth in the Credit Agreement or in the other Loan Documents, or as more particularly defined in the Addendum to Borrowing Base Report attached hereto and made a part hereof by this reference.

Lender to cure the Borrowing Base Deficit as set forth in the plan approved by Lender. In the event Borrower's plan to cure the Borrowing Base Deficit is not acceptable to Lender, Lender will be free to declare an Event of Default and proceed with any available remedy as a result of such Event of Default unless, within one (1) Business Day, Borrower shall make a payment to Lender in an amount equal to the Borrowing Base Deficit.

(Addendum to Borrowing Base Report appears on the following page)

ADDENDUM TO BORROWING BASE REPORT

The following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined) with respect to the Borrowing Base Report or as sometimes referred to as the **“Borrowing Base Collateral”**. Lender reserves the sole right in its Permitted Discretion to determine the eligibility or ineligibility of any Item for inclusion as Borrowing Base Collateral in the Borrowing Base Report.

1. The term **“Funds in Borrower’s Account”** means Borrower’s cash and cash equivalents on deposit with Lender, that is, Borrower’s collected funds on deposit with Lender (excluding all book overdrafts in any such account as of the date of the calculation of the Net Borrowing Base). Notwithstanding the foregoing, cash and cash equivalents on deposit with other financial institutions may be included in the definition of this term from April 11, 2022 until October 11, 2022.

2. The term **“Eligible Accounts Receivables”** means, at any time, all of Borrower’s accounts which contain terms and conditions are acceptable to Lender in its Permitted Discretion and in which Lender has a first lien security interest, less the amount of all returns, discounts, credits, and offsets of any nature; provided, however, unless otherwise agreed to by Lender in writing, Eligible Accounts Receivable do not include: (a) accounts receivables with respect to which the account debtor is an officer, an employee or agent of Borrower and to which the account debtor is a Subsidiary of, or an Affiliate with, or related to the Borrower or its members, officers, or directors, except that account receivables by Borrower, an guarantor, or any Affiliate thereof, shall be considered an Eligible Account provided said account receivable has been incurred on fair and reasonable business terms no less favorable to such account debtor than would otherwise be available in a comparable arms-length transaction with any Person unrelated to Borrower or to guarantor and such account receivable is not otherwise excluded; (b) all accounts receivables with respect to which Borrower has furnished a payment and/or performance bond and that portion of any accounts for or representing retainage, if any, until all prerequisites to the immediate payment of such retainage have been satisfied; (c) accounts receivables with respect to which goods are placed on consignment or subject to a guaranteed sale or other terms by reason of which the payment by the account debtor may be conditional; and (d) accounts receivables of any account debtor who has filed or has had filed against it a petition in bankruptcy or an application for relief under any provision of any state or federal bankruptcy, insolvency, or debtor-in-relief acts; or who has had appointed a trustee, custodian, or receiver for the assets of such account debtor; or who has made an assignment for the benefit of creditors or has become insolvent or fails generally to pay its debts (including its payrolls) as such debts become due.

3. The term **“Raw Materials”** means Borrower’s property that is utilized in the manufacture of Borrower’s products for sale or lease. All Raw Materials will be valued at the lower of cost or market value as determined by Lender in its Permitted Discretion. To be “eligible” for inclusion in the Borrowing Base Report as Borrowing Base Collateral, Lender must have a first priority security interest against all such Raw Materials. Notwithstanding the foregoing, in no event will the value of the Raw Materials for purposes of the Borrowing Base calculation exceed \$25,000,000.00.

4. The term **“Works in Progress”** means Borrower’s manufactured products that are not complete and ready for sale or lease. All Works in Progress will be valued at the lower of cost or market value as determined by Lender in its Permitted Discretion. To be “eligible” for inclusion in the Borrowing Base Report as Borrowing Base Collateral, Lender must have a first priority security interest against all such Works in Progress.

5. The term **“Finished Goods”** means Borrower’s Inventory of Borrower’s completed products which are sellable or leasable in Borrower’s ordinary course of business, consistent with past practice. All Finished Goods will be valued at the lower of cost or market value as determined by Lender in its Permitted Discretion. To be “eligible” for inclusion in the Borrowing Base Report as Borrowing Base Collateral, Lender must have a first priority security interest against all such Finished Goods.

6. The term **“CIBC Bank USA Account”** means deposit account number 2533502 maintained at CIBC Bank USA having a balance not to exceed \$575,000.00.

7. The term **“Sub-Total Borrowing Base”** means the sum of items 1 – 5 consisting of the aggregate value of all Borrowing Base Collateral. Any item of Borrowing Base Collateral may be included in the Total Borrowing Base in only a single category of Borrowing Base Collateral.

8. The term **“Sub-Total Obligations”** means the sum of: (a) the outstanding principal balance and accrued unpaid interest on the Operating Note; plus (b) the amount of overdrafts in Borrower’s account with Lender; plus (c) accounts payable for Borrowers’ United States operations; plus (d) the amount held in the CIBC Bank USA Account.

9. The term **“Net Borrowing Base”** means the remainder of: (a) the Sub-Total Borrowing Base; less (b) the Sub-Total Obligations, that is, if such remainder is positive (*i.e.*, the “Borrowing Base Equity”) then the amount is what is available for advance under the Operating Note, subject to the maximum available credit limitation set forth therein; and if such remainder is negative (*i.e.*, the “Borrowing Base Deficit”) then Lender will not be under any circumstances required to make any advance under the Operating Note.

(Exhibit “B-2” follows on next page)

Exhibit "B-2"

BORROWING BASE REPORT²

Date: _____

<u>Collateral Description</u>	<u>Amount</u>	<u>Advance</u>	<u>Value</u>
1. Funds in Borrower's Account:	\$ _____	100%	\$ _____
2. Eligible Accounts Receivables ("A/R"):			
(a) Total Eligible AR:	\$ _____	75%	\$ _____
3. Equipment and Inventory:	\$ _____	75%	\$ _____
4. Sub-Total Borrowing Base (Sum of Lines 1, 2(a), and 3):			
<u>Debt Description</u>			\$ _____
5. Less: Sub-Total Obligations:		<u>Multiple</u>	
(a) Holdco Operating Note – P&I outstanding:		100%	\$ _____
(b) Overdrafts in Borrower's Account:		100%	\$ _____
(c) Accounts Payable		50%	\$ _____
6. Net Borrowing Base —(Sub-Total Borrowing Base minus Sub-Total Obligations):			\$ _____

 ("Borrowing Base Equity" if positive *i.e.* amount available for advance, and "Borrowing Base Deficit" if negative)

The undersigned hereby certifies to Lender that this Borrowing Base Report is true and correct in all respects.

MANITEX INTERNATIONAL, INC., a Michigan corporation, **MANITEX SABRE, INC.**, a Delaware corporation, **MANITEX, INC.**, a Texas corporation, **MANITEX, LLC**, a Delaware limited liability company, **BADGER EQUIPMENT COMPANY**, a Minnesota corporation, **CRANE AND MACHINERY, INC.**, an Illinois corporation, **CRANE AND MACHINERY LEASING, INC.**, an Illinois corporation, **RABERN HOLDCO, INC.**, a Delaware corporation, and **RABERN RENTALS, LLC**, a Delaware limited liability company

By: _____
Printed Name: _____
Title: _____

All determinations in connection with the Borrowing Base Report will be originally made by Borrower and certified to Lender. Lender, however, will have the final right to review and adjust, in its Permitted Discretion, any such determination, including without limitation, adjustment of any specific factor or factors that relate to the amount of the Borrowing Base Equity or to any categories in the Borrowing Base Report.

If at any time from and after the Effective Date, the "Sub-Total Obligations" exceed the "Sub-Total Borrowing Base", Borrower will immediately notify Lender of such fact, and will immediately pay to Lender the amount necessary to reduce the aggregate unpaid balance of the Holdco Operating Note to or below the limit imposed by the Borrowing Base Report. Under no circumstances will Lender be required to make advances under any of the Loans if the aggregate unpaid balance of the Holdco Operating Note exceed the limits imposed by the Borrowing Base Report, or if there is an existing Event of Default under this Credit Agreement or any of the Loan Documents. If at any time the Sub-Total Obligations exceed the Sub-Total Borrowing Base then to the extent of the excess, a "Borrowing Base Deficit" exists and in that event, immediately upon any determination of a Borrowing Base Deficit, whether by notice from Lender or otherwise, Borrower will provide to Lender the plan (formulated by Borrower) to cure such Borrowing Base Deficit. In the event such plan to cure is acceptable to Lender (in its Permitted Discretion); Borrower may be permitted by Lender to cure the Borrowing Base Deficit as set forth in the plan approved by Lender. In the event Borrower's plan to cure the Borrowing Base Deficit is not acceptable to Lender, Lender will be free to declare an Event of Default and proceed with any available remedy as a result of such Event of Default unless, within one (1) Business Day, Borrower shall make a payment to Lender in an amount equal to the Borrowing Base Deficit.

(Addendum to Borrowing Base Report appears on the following page)

² Initially defined terms used in this Borrowing Base Report are defined as set forth in the Credit Agreement or in the other Loan Documents, or as more particularly defined in the Addendum to Borrowing Base Report attached hereto and made a part hereof by this reference.

ADDENDUM TO BORROWING BASE REPORT

The following terms shall have the following meanings (such meanings to be equally applicable to both the singular and plural forms of the terms defined) with respect to the Borrowing Base Report or as sometimes referred to as the “**Borrowing Base Collateral**”. Lender reserves the sole right in its Permitted Discretion to determine the eligibility or ineligibility of any Item for inclusion as Borrowing Base Collateral in the Borrowing Base Report.

1. The term “**Funds in Borrower’s Account**” means Holdco’s and Rabern’s cash and cash equivalents on deposit with Lender (excluding all book overdrafts in any such account as of the date of the calculation of the Net Borrowing Base). Notwithstanding the foregoing, cash and cash equivalents on deposit with other financial institutions may be included in the definition of this term from April 11, 2022 until October 11, 2022.

2. The term “**Eligible Accounts Receivables**” means, at any time, all of Holdco’s and Rabern’s accounts which contain terms and conditions are acceptable to Lender in its Permitted Discretion and in which Lender has a first lien security interest, less the amount of all returns, discounts, credits, and offsets of any nature; provided, however, unless otherwise agreed to by Lender in writing, Eligible Accounts Receivable do not include: (a) accounts receivables with respect to which the account debtor is an officer, an employee or agent of Borrower and to which the account debtor is a Subsidiary of, or an Affiliate with, or related to the Borrower or its members, officers, or directors, except that account receivables by Borrower, a guarantor, or any Affiliate thereof, shall be considered an Eligible Account provided said account receivable has been incurred on fair and reasonable business terms no less favorable to such account debtor than would otherwise be available in a comparable arms-length transaction with any Person unrelated to Borrower or to guarantor and such account receivable is not otherwise excluded; (b) all accounts receivables with respect to which Borrower has furnished a payment and/or performance bond and that portion of any accounts for or representing retainage, if any, until all prerequisites to the immediate payment of such retainage have been satisfied; (c) accounts receivables with respect to which goods are placed on consignment or subject to a guaranteed sale or other terms by reason of which the payment by the account debtor may be conditional; and (d) accounts receivables of any account debtor who has filed or has had filed against it a petition in bankruptcy or an application for relief under any provision of any state or federal bankruptcy, insolvency, or debtor-in-relief acts; or who has had appointed a trustee, custodian, or receiver for the assets of such account debtor; or who has made an assignment for the benefit of creditors or has become insolvent or fails generally to pay its debts (including its payrolls) as such debts become due.

3. The term “**Equipment and Inventory**” means equipment and inventory held primarily for rent or sale in the ordinary course of business of Holdco’s and Rabern’s business subject to a first lien security interest in favor of Lender, provided, however, unless otherwise agreed to by Lender in writing, Equipment and Inventory does not include equipment or inventory: (a) located outside the United States, (b) constituting consigned inventory, (c) the sale or rental of such equipment and inventory would not result in an Eligible Accounts Receivable, (d) that is subject to a Lien in favor of any other creditor, including any Permitted Lien, and (e) is not otherwise satisfactory to Lender as determined in its Permitted Discretion. For the purposes of valuing Equipment and Inventory, such value shall be the lower of cost or market value as determined by Lender in its Permitted Discretion.

4. The term “**Sub-Total Borrowing Base**” means the sum of items 1 – 3 consisting of the aggregate value of all Borrowing Base Collateral. Any item of Borrowing Base Collateral may be included in the Total Borrowing Base in only a single category of Borrowing Base Collateral.

5. The term “**Sub-Total Obligations**” means the sum of: (a) the outstanding principal balance and accrued unpaid interest on the Holdco Operating Note; plus (b) the amount of overdrafts in Borrower’s account with Lender.

6. The term “**Net Borrowing Base**” means the remainder of: (a) the Sub-Total Borrowing Base; less (b) the Sub-Total Obligations, that is, if such remainder is positive (*i.e.*, the “Borrowing Base Equity”) then the amount is what is available for advance under the Holdco Operating Note, subject to the maximum available credit limitation set forth therein; and if such remainder is negative (*i.e.*, the “Borrowing Base Deficit”) then Lender will not be under any circumstances required to make any advance under the Holdco Operating Note.

Schedule 1
Permitted Liens

DEBTOR	JURISDICTION	SECURED PARTY	FINANCING STATEMENT NO.	FILING DATE	COLLATERAL DESCRIPTION
Rabern Rentals, LP	Texas Secretary of State	Blue Mountain Equipment, Inc. 1800 S. Airport Drive McKinney, TX 75069	07-0014060210	04/26/07	Stihl branded products, proceeds
			10-00167557	06/10/10	
			(amend.)	02/14/12	
			12-00047649 (cont.)	02/07/17	
			17-00043449	02/07/17	
			(amend.)	02/09/17	
17-00043450 (cont.)	02/04/22				
Rabern Rentals, LP	Texas Secretary of State	De Lage Landen Financial Services, Inc. 1111 Old Eagle School Road Wayne, PA 19087	08-0007143306	02/28/08	Equipment and Inventory financed by Secured Party for Debtor and all accounts, contract rights, chattel paper, documents, general intangibles, payment intangibles and instruments arising from the sale, lease or rental of the Equipment and Inventory (Two Komatsu Forklifts)
			13-00016519 (cont.)	01/15/13	
			18-00024081 (cont.)	01/22/18	
Rabern Rentals, LP	Texas Secretary of State	Caterpillar Financial Services Corporation 2020 West End Ave. Nashville, TN 37203-0986	15-0035480046 20-00193561 (cont.)	11/05/15 05/22/20	All present and future types of goods acquired by the Debtor from the Secured Party, proceeds

<u>DEBTOR</u>	<u>JURISDICTION</u>	<u>SECURED PARTY</u>	<u>FINANCING STATEMENT NO.</u>	<u>FILING DATE</u>	<u>COLLATERAL DESCRIPTION</u>
Rabern Rentals, LP	Texas Secretary of State	Skyjack Equipment Services, Inc. 2525 Enterprise Circle, Suite 1 West Chicago, IL 60185 and Skyjack Financial Services, Inc. 207 N. Michigan Avenue, Suite 200 Howell, MI 48843	16-0036452289 20-00237634 (amend.) 21-00340984 (cont.)	11/07/16 06/08/20 08/09/21	PMSI interest in all inventory, equipment, fixtures, machinery, spare parts, and other goods manufactured or sold by Skyjack, Inc., etc., proceeds
Rabern Rentals, LP	Texas Secretary of State	First Capital Solutions, LLC P.O. Box 8467 Amarillo, TX 79114	17-0009373777	03/21/17	2015, 2016 and 2017 Ditch Witches
Rabern Rentals, LP	Texas Secretary of State	Warren Power & Machinery, Inc. P.O. Box 60662 10325 Younger Rd. Midland, TX 79711	17-0036580373	10/30/17	AA 140M3 ARO
Rabern Rentals, LP	Texas Secretary of State	TCF National Bank 11100 Wayzata Blvd., Suite 801 Minnetonka, MN 55305	21-0008251776	03/03/21	Inventory financed by Secured Party, all insurance proceeds, rents, cash, accounts, instruments, chattel paper related thereto, proceeds
Rabern Rentals, LP	Texas Secretary of State	Compact Excavator Sales LLC P.O. Box 667 Elizabethtown, KY 42702	21-0014009380	04/08/21	All present and future inventory of equipment now owned or hereafter acquired by the Debtor from Secured Party consisting of KATO Excavators, KATO Crawler Carriers, KATO Compact Track Loaders, Canycom Track Dumpers, cash, accounts receivable, contract rights, leases, documents, instruments and chattel paper, proceeds

Schedule 5.8

Insurance

<u>INSURER</u>	<u>POLICY TYPE</u>	<u>POLICY NUMBER</u>	<u>CURRENT POLICY PERIOD</u>
Sompo International – Endurance American Insurance Company	Excess Liability	DOX30012074200	October 13, 2021 to October 13, 2022
Tokio Marine HCC – D&O Group	Directors, Officers and Corporate Liability	14-MGU-21-A52962	October 13, 2021 to October 13, 2022
Travelers Casualty and Surety Company of America	Crime, Kidnap and Ransom Liability	105545841	October 13, 2021 to October 13, 2022
Great American Insurance Group	Fiduciary Liability Insurance	FDP3120888	October 13, 2021 to October 13, 2022
Sompo International – Endurance American Insurance Company	Management Assurance	EPP30002066501	October 13, 2021 to October 13, 2022

Schedule 8.4

Indebtedness

Sale leaseback transaction with respect to the Germantown, Texas facility.

Schedule 8.8
Transactions with Affiliates

None.

Badger's Counterpart Signature Page

This Credit Agreement is executed and intended to be effective as of the Effective Date.

BORROWER:

BADGER EQUIPMENT COMPANY, a Minnesota corporation

By: /s/ Joseph Doolan

Joseph Doolan, Treasurer

Address for Notice:

9725 Industrial Drive

Bridgeview, Illinois 60455

Attention: Joe Doolan, CFO

Tel: 708-237-2066

Email: jdoolan@manitex.com

With a copy to:

Bryan Cave Leighton Paisner LLP

211 N Broadway, Suite 3600

St. Louis, Missouri 63102

Attention: Joe Robertson

Tel: 314-259-2031

Email: joe.robertson@bclplaw.com

**COMMERCIAL CREDIT AGREEMENT—
SUPPLEMENTAL SIGNATURE PAGE**

EMPLOYMENT AGREEMENT

THIS EMPLOYMENT AGREEMENT (this "Agreement") is made as of the 11th day of April, 2022 (the "Effective Date"), by and between Michael Coffey ("Employee") and Manitex International, Inc. a Michigan corporation, whose address is 9725 S. Industrial Drive, Bridgeview, Illinois 60455 (the "Company").

RECITALS

WHEREAS, the Company is engaged in the business of the design, manufacturing, and sale of specialty equipment (the "Business").

WHEREAS, the Company desires to employ Employee as its Chief Executive Officer, and Employee desires to be employed by the Company, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein, and intending to be legally bound, the parties, subject to the terms and conditions set forth herein, agree as follows:

TERMS

1. Employment Term. Subject to the terms and conditions set forth herein, the Company agrees to employ Employee, and Employee hereby accepts employment, as the Chief Executive Officer ("CEO") of the Company and its subsidiaries (the "Position"), for a term commencing on the Effective Date and ending on the date Employee's employment is terminated as provided in Section 10 of this Agreement (such term, the "Employment Term"). Employee shall be employed at will, and Employee's employment may be terminated by either party at any time, with or without reason or cause. However, as described in this Agreement, Employee may be entitled to severance benefits upon a termination by the Company without Cause (as defined below) or by Employee for Good Reason (as defined below).

2. Duties. During the Employment Term, Employee shall serve the Company faithfully and to the best of Employee's ability, shall devote Employee's full attention, skill and efforts to the performance of the duties of the Position. Employee shall report to the Company's Board of Directors (the "Board"), and the Company shall nominate Employee to serve on the Board. Employee will render such business and professional services in the performance of his duties, consistent with Employee's position within the Company, as will reasonably be assigned to him by the Board. For the avoidance of doubt, Employee is employed to serve as the Company's sole CEO and not as co-CEO. During the Employment Term, Employee will devote Employee's full business efforts and time to the Company and will use good faith efforts to discharge Employee's obligations under this Agreement to the best of Employee's ability. For the duration of the Employment Term, Employee agrees not to actively engage in any other employment, occupation, or consulting activity for any direct or indirect remuneration without the prior approval of the Board; provided, that Employee may, without the approval of the Board, serve in any capacity with any civic, educational, or charitable organization, provided such services do not materially interfere with Employee's obligations to Company, as determined by the Company in its reasonable judgment.

3. Other Business Activities. During the Employment Term, other than as provided in Section 2 above, Employee will not engage in any other business activities or pursuits which are contrary to Employee's responsibilities and obligations pursuant to this Agreement.

4. Compensation.

- a. Base Salary. As of the Effective Date, the Company will pay Employee an annual salary of \$400,000 as compensation for his services (such annual salary, as is then effective, to be referred to herein as "Base Salary"). The Base Salary will be paid periodically in accordance with the Company's normal payroll practices and be subject to the usual, required withholdings. Employee's salary will be reviewed annually by the Compensation Committee of the Board or any successor thereto (the "Committee"), in consultation with Employee, at the beginning of each year on or about March 1, and adjustments may be made at the discretion of the Committee. Base Salary may be increased but may not be decreased except with Employee's consent.
- b. Annual Incentive. Employee will be eligible to receive annual cash incentives payable for the achievement of performance goals established by the Committee in consultation with Employee (the "Annual Incentive"). Employee's target Annual Incentive each year will be 200% of Base Salary. The actual earned Annual Incentive, if any, payable to Employee for any performance period will depend upon the extent to which the applicable performance goal(s) specified by the Committee are achieved and will be decreased or increased accordingly, in accordance with the terms of the Company's incentive compensation program, as it may exist from time to time. Payment of Annual Incentive shall be made in the year following the Fiscal Year to which such bonus relates, and will be subject to normal and customary withholdings. For the Company's Fiscal Year 2022, Employee shall be guaranteed a minimum Annual Incentive equal to fifty percent (50%) of the target bonus for such year.
- c. Equity. Subject to approval of the Compensation Committee of the Board, the Company shall grant Employee the following inducement equity awards with respect to common stock of the Company ("Stock"):
 - i. one hundred thousand (100,000) restricted stock units, which shall vest one-third on the first anniversary of the Effective Date, one-third on the second anniversary of the Effective Date and one-third on the third anniversary of the Effective Date, subject to Employee's continued service on each vesting date;
 - ii. options to purchase one hundred thousand (100,000) shares of Stock, which shall have an exercise price equal to the closing price of the Stock on the grant date, and shall vest one-third on the first anniversary of the Effective Date, one-third on the second anniversary of the Effective Date and one-third on the third anniversary of the Effective Date, subject to Employee's continued service on each vesting date;
 - iii. four hundred and ninety thousand (490,000) restricted stock units, which will become vested to the extent that the thirty-day moving average market price of the Stock reaches certain levels described on Exhibit A to this Agreement, subject to Employee's continued service as of the achievement of each of the performance conditions; and
 - iv. one hundred thousand (100,000) restricted stock units which will become vested upon a Change in Control (as defined in the Company's 2019 Equity Incentive Plan) in which the per share consideration for the Stock exceeds \$10.00, subject to Employee's continued service through the Change in Control.

All equity awards will be subject to the terms and conditions determined by the Compensation Committee and the applicable forms of award agreement thereunder.

- d. Equity Purchases. Employee agrees that he will purchase up to 25,000 shares of Stock on the open market, in one or more tranches, as soon as practicable following the Effective Date.

5. Benefits. Employee shall be entitled to those employee benefits which the Company from time to time generally make available to employees ("Benefits") pursuant to the terms and conditions of the Company's benefit plans and/or policies. The Benefits shall initially include, without limitation:

- a. Medical, dental, vision, and life and disability insurance and such other benefits as the Company may determine from time to time.
- b. Incentive, savings and retirement plans, practices, policies and programs applicable to Employees of the Company, including 401(k), and stock matching.
- c. Paid vacation time in accordance with the plans, practices, policies and programs applicable to Employees of the Company at four weeks for each calendar year.
- d. A monthly automobile expense allowance in the amount of \$1,500.
- e. An insurance annuity upon terms and conditions reasonably consistent with the Company's past practice.

6. Reimbursement of Business Expenses. Subject to such conditions as the Company may from time to time determine, Employee shall be reimbursed for ordinary and reasonable documented expenses incurred by Employee in the performance of Employee's duties under this Agreement. Employee shall also be reimbursed for cellular telephone and personal data assistant costs and expenses as well as customary expenses relating to professional activities.

7. Confidentiality.

- a. Duty. Employee recognizes and acknowledges that the Confidential Information (as hereinafter defined) is a valuable, special and unique asset of the Company. As a result, both during and after the Employment Term, Employee shall not, without the prior written consent of the Company, for any reason, either directly or indirectly divulge to any third party or use for Employee's own benefit or for any purpose other than the exclusive benefit of the Company any confidential, proprietary, business or technical information or trade secrets of the Company or of any subsidiary or affiliate of the Company ("Confidential Information") revealed, obtained or developed in the course of Employee's employment with the Company. Such Confidential Information shall include, but shall not be limited to, the intangible personal property described in Section 8.b hereof, any information relating to methods of production, manufacture, service, research, specifications, computer codes, business, marketing and sales techniques and concepts, other data and materials used in performing Employee's duties (other than his personal contact list), costs, business studies,

finances, marketing data, plans and efforts, the terms of contracts and agreements with customers, contractors and suppliers, litigation strategy and other Confidential Information relating to litigation, the Company's relationship with actual and prospective customers, contractors and suppliers and the needs and requirements of, and the Company's course of dealing with, any such actual or prospective customers, contractors and suppliers, personnel information, and any other materials that have not been made available to the industry; provided, that nothing herein contained shall restrict Employee's ability to make such disclosures during the course of Employee's employment as may be necessary or appropriate to the effective and efficient discharge of the duties required by or appropriate for Employee's Position or as such disclosures may be required by law; and further provided, that nothing herein contained shall restrict Employee from divulging or using for Employee's own benefit or for any other purpose any Confidential Information that is readily available to the general public so long as such information did not become available to the general public as a direct or indirect result of Employee's breach of this Section 7.

- b. Defend Trade Secrets Act Provision. Notwithstanding any other provision of this Agreement, 18 U.S.C. §1833(b) provides, in part: *"(1) An individual shall not be held criminally or civilly liable under any Federal or State trade secret law for the disclosure of a trade secret that (A) is made (i) in confidence to a Federal, State, or local government official, either directly or indirectly, or to an attorney; and (ii) solely for the purpose of reporting or investigating a suspected violation of law; or (B) is made in a complaint or other document filed in a lawsuit or other proceeding, if such filing is made under seal . . . (2) An individual who files a lawsuit for retaliation by an employer for reporting a suspected violation of law may disclose the trade secret to the attorney of the individual and use the trade secret information in the court proceeding, if the individual (A) files any document containing the trade secret under seal; and (B) does not disclose the trade secret, except pursuant to court order."* Nothing in this Agreement, any other agreement executed by Employee, or any Company policy, is intended to conflict with this statutory protection.

8. Inventions and Property.

- a. Title to Proprietary Information. All right, title and interest in and to proprietary information shall be and remain the sole and exclusive property of the Company. During the Employment Term, Employee shall not remove from the Company's offices or premises any documents, records, notebooks, files, correspondence, reports, memoranda or similar materials of, or containing, proprietary or Confidential Information or other materials or property of any kind belonging to the Company, unless necessary or appropriate in accordance with the duties and responsibilities required by or appropriate for Employee's position, and, in the event that such materials or property are removed, all of the foregoing shall be returned to their proper files or places of safekeeping as promptly as possible after the removal. Notwithstanding the foregoing, Employee may elect to purchase a Company-provided laptop computer, tablet computer or mobile telephone for its fair market value, as determined by the Company in its reasonable judgment, provided that Employee first delivers such device to the Company so that the Company can remove all Confidential Information from the device.

b. Development of Intellectual Property.

- i. Employee agrees that all right, title and interest in and to any innovations, designs, systems, analyses, ideas for sales and marketing programs, customer contacts, and all copyrights, patents, trademarks and trade names, or similar intangible personal property which have been or are developed or created in whole or in part by Employee (A) at any time and at any place during Employee's employment with the Company and which, in the case of any or all of the foregoing, are related to and used in connection with the Business or any other business of the Company, (B) as a result of tasks assigned to Employee by the Company or (C) from the use of premises or personal property (whether tangible or intangible) owned, leased or contracted for by the Company (collectively, the "Intellectual Property"), shall be and remain forever the sole and exclusive property of the Company. Employee shall promptly disclose to the Company all Intellectual Property and Employee shall have no claim for additional compensation for the Intellectual Property.
- ii. Employee acknowledges that all the Intellectual Property that is copyrightable shall be considered a work made for hire under United States Copyright Law. To the extent that any copyrightable Intellectual Property may not be considered a work made for hire under the applicable provisions of the United States Copyright Law, or to the extent that, notwithstanding the foregoing provisions, Employee may retain an interest in any Intellectual Property that is not copyrightable, Employee hereby irrevocably assigns and transfers to the Company any and all right, title, or interest that Employee may have in the Intellectual Property under copyright, patent, trade secret and trademark law, in perpetuity or for the longest period otherwise permitted by law, without the necessity of further consideration. The Company shall be entitled to obtain and hold in their own name all copyrights, patents, trade secrets, and trademarks with respect thereto.
- iii. Employee further agrees to reveal promptly all information relating to the same to an appropriate officer of the Company and to cooperate with the Company and execute such documents as may be necessary or appropriate (A) in the event that the Company desires to seek copyright, patent or trademark protection, or other analogous protection, thereafter relating to the Intellectual Property, and when such protection is obtained, to renew and restore the same, and (B) to defend any opposition proceedings in respect of obtaining and maintaining such copyright, patent or trademark protection, or other analogous protection.
- iv. Notwithstanding the foregoing, Employee shall have no obligation to assign an invention that qualifies for fully for protection under 765 ILCS 1060/2, which currently states as follows:

Sec. 2. Employee rights to inventions—conditions.

(1) A provision in an employment agreement which provides that an employee shall assign or offer to assign any of the employee's rights in an invention to the employer does not apply to an invention for which no equipment, supplies, facilities, or trade secret information of the employer was used and which was developed entirely on the employee's own time, unless (a) the invention relates (i) to the business of the employer; or (ii) to

the employer's actual or demonstrably anticipated research or development, or (b) the invention results from any work performed by the employee for the employer. Any provision which purports to apply to such an invention is to that extent against the public policy of this State and is to that extent void and unenforceable. The employee shall bear the burden of proof in establishing his invention qualifies under this subsection.

(2) An employer shall not require a provision made void and unenforceable by subsection (1) of this Section as a condition of employment or continuing employment. This Act shall not preempt existing common law applicable to any shop rights of employers with respect to employees who have not signed an employment agreement.

(3) If an employment agreement entered into after January 1, 1984, contains a provision requiring the employee to assign any of the employee's rights in any invention to the employer, the employer must also, at the time the agreement is made, provide a written notification to the employee that the agreement does not apply to an invention for which no equipment, supplies, facility, or trade secret information of the employer was used and which was developed entirely on the employee's own time, unless (a) the invention relates (i) to the business of the employer, or (ii) to the employer's actual or demonstrably anticipated research or development, or (b) the invention results from any work performed by the employee for the employer.

9. Non-Competition and Non-Solicitation.

- a. Non-Competition. During the Employment Term and for a period of twelve (12) months thereafter (the "Restricted Period"), Employee shall not, within the Restricted Territory directly or indirectly, (a) own (in whole or in part), invest in, lend to or finance, or (b) provide any services to, whether as director, officer, manager, employee, agent, contractor, consultant, joint-venturer or otherwise, any natural person or entity that sells or offers for sale any products or services that are the same as or substantially similar to products or services sold or offered for sale by the Company. As used in this Agreement, the "Restricted Territory" shall mean the United States of America. Notwithstanding the foregoing, this Section 9(a) shall not prevent Employee from owning five percent (5%) or less of the equity securities of any entity whose equity securities are listed on an internationally-recognized stock exchange, provided that Employee does not, directly or indirectly, participate in the management of such entity or provide any services to such entity.
- b. Customer Non-Solicitation. During the Restricted Period, Employee shall not, directly or indirectly, except for the benefit of the Company, solicit or induce, or attempt to solicit or induce, any customer of the Company to terminate, reduce or otherwise alter to the detriment of the Company such customer's business relationship with the Company.
- c. Employee Non-Solicitation. During the Restricted Period, Employee shall not, directly or indirectly, except for the benefit of the Company, solicit or induce, or attempt to solicit or induce, any employee, contractor or consultant of the Company to terminate, reduce or otherwise alter to the detriment of the Company such person's business relationship with the Company.

- d. Enforcement. Employee acknowledges that the time limitation, territorial restriction and restriction on activities described herein are reasonable in scope and are appropriate to protect the Company's trade secrets, goodwill and other protectable interests. Employee further acknowledges and agrees that Employee has received adequate consideration for the restrictions described herein and that such restrictions will not prevent Employee from earning a living. Employee acknowledges and agrees that any material breach by Employee of any covenant in this Section 9 will cause the Company irreparable injury and damage and that the Company shall therefore be entitled to, in addition to all other remedies available to it, injunctive and other equitable relief (without the necessity of posting a bond) to prevent or stop such breach and to secure the enforcement of this Agreement. Should Employee breach any covenant in this Section 9, the Restricted Period shall be extended one day for each day of breach by Employee. Should a court or arbitrator of competent jurisdiction determine that any restriction described herein is overly broad or otherwise unenforceable, in whole or in part, the parties agree that the court shall modify such restriction to the minimum extent necessary to render the restriction enforceable.

10. Termination.

- a. Termination Date: Employee's employment with the Company shall terminate upon the effective date of the earliest of the following to occur (the "Termination Date"): (i) Employee's death, (ii) Employee's Permanent Disability (as defined below), (iii) Employee's termination of his employment for Good Reason (as defined below), (iv) Employee's termination of his employment without Good Reason, (v) the Company's termination of Employee's employment for Cause (as defined below), or (vi) the Company's termination of Employee's employment Without Cause (as defined below).
- b. Effective Dates. Termination of Employee's employment with the Company shall be effective on the following date: (i) if terminated as a result of death, on the date of death; (ii) if terminated as a result of Permanent Disability, on the date specified in the Disability Termination Notice (as defined below); (iii) if terminated as a result of Employee's resignation (whether for Good Reason or without Good Reason), on the date specified in a written notice delivered by Employee to the Company, which date shall be at least ninety (90) days following the date of such written notice; and (iv) if terminated by the Company (whether for Cause or Without Cause), on the date specified in a written notice delivered by the Company to Employee.
- c. Actions Following Notice. Upon the giving of any notice of termination by the Company or by Employee, the Company may, at its sole discretion, require Employee to work from home or other remote location, relieve Employee of all or any part of Employee's duties, place Employee on paid administrative leave, or any combination thereof, and no such actions, alone or in combination, shall constitute Good Reason for termination.
- d. Definition of Cause: As used in this Agreement, "Cause" shall mean: (i) Employee's admission of, or conviction of any act of fraud, embezzlement or theft against the Company or any of its subsidiaries; (ii) Employee's plea of guilty or of no contest with respect to, admission of, or conviction for, a felony or any crime involving moral turpitude, fraud, embezzlement, theft or misappropriation; (iii) Employee's

violation of the provisions set forth in Sections 7, 8 or 9; (iv) Employee's misappropriation of the Company's or any of its subsidiaries' funds or a corporate opportunity by Employee; (v) Employee's negligence, willful or reckless conduct that has brought or is reasonably likely to bring the Company or any of its subsidiaries into public disgrace or disrepute or which has had or is reasonably likely to have a materially adverse effect on the Business; (vi) any violation by Employee of any statutory or common law duty of loyalty to the Company or any of its subsidiaries; (vii) alcohol or substance abuse by Employee that interferes with the performance of Employee's duties; or (viii) any other material breach by Employee of this Agreement; provided, that the reasons described in clauses (iii), (vi), (vii) and (viii) shall constitute Cause only upon Employee's failure to correct such behavior prospectively within ten (10) days following written notice thereof from, or on behalf of the independent members of the Board of Directors of the Company, and further provided, that Cause shall not include (x) bad judgment or negligence other than habitual neglect of duty, (y) any act or omission believed by Employee in good faith to have been in or not opposed to the interest of the Company (without intent of Employee to gain therefrom, directly or indirectly, a profit to which Employee was not legally entitled); or (z) any act or omission with respect to which a determination could properly have been made that Employee met the applicable standard of conduct for indemnification or reimbursement under the by-laws of the Company, any applicable indemnification agreement or the laws and regulations under which the Company is governed, in each case in effect at the time of such act or omission. The exercise of the right of the Company to terminate Employee's employment for Cause shall not abrogate any rights or remedies of the Company in respect of the action giving rise to such termination.

- e. Definition of Good Reason. As used in this Agreement, "Good Reason" shall mean the occurrence of any of the following events without Employee's prior written consent: (i) a material diminution in Employee's base salary, (ii) a material diminution in Employee's authority, duties, or responsibilities, (iii) a requirement that Employee relocate his principal work location more than thirty (30) miles, or (iv) any other material breach of this Agreement by the Company; provided, that Good Reason shall not exist unless: (x) Employee provides written notice to the Company within thirty (30) days after the first occurrence of the event alleged to constitute Good Reason, which notice describes the event and identifies it as "Good Reason" for termination; (y) the Company fails to cure such event within thirty (30) days after its receipt of such notice; and (z) Employee terminates his employment within thirty (30) days after the expiration of such cure period.
- f. Definition of Without Cause. As used in this Agreement, a termination "Without Cause" means a termination by the Company for any reason not specified in clauses (i) through (v) of Section 10.a.
- g. Definition of Permanent Disability. As used in this Agreement, "Permanent Disability" shall be deemed to exist upon the earlier of (i) the end of a six (6) consecutive month period during which, by reason of physical or mental injury or disease, Employee has been unable to perform substantially all of his usual and customary duties under this Agreement or (ii) the date that a reputable physician selected by the Board, and as to whom Employee (or Employee's legal representative in the event of Employee's incapacity) has no reasonable objection, determines in writing that Employee will, by reason of physical or mental injury or disease, be

unable to perform substantially all of Employee's usual and customary duties under this Agreement for a period of at least six (6) consecutive months. If any question arises as to whether Permanent Disability exists, upon reasonable request therefore by the Board, Employee shall submit to reasonable medical examination for the purpose of determining the existence, nature and extent of any such disability. The Board shall promptly give Employee written notice of any such determination of Employee's disability and of any decision of the Board to terminate Employee's employment by reason thereof on or after the date of such determination (such notice of decision, a "Disability Termination Notice").

11. Termination Payments.

- a. Payments upon Termination. Upon the termination of Employee's employment, Employee (or Employee's estate in the event of Employee's death) shall be entitled to (i) payment of Employee's Base Salary through the Termination Date, (ii) payment of any bonus earned but unpaid as of the Termination Date as determined by the Board, (iii) payment for vacation accrued but unused as of the Termination Date, (iv) reimbursement of any business expenses incurred during the Employment Term and reimbursable as provided in Section 6 of this Agreement, and (v) payment or provision of any benefits explicitly provided under the terms of any benefit plan, policy or program of the Company or as otherwise required by applicable law (collectively, the "Accrued Payments"). Employee shall not be entitled to payment of severance or any other post-termination compensation except as expressly provided in Section 11.b or Section 11.c of this Agreement.
- b. Severance. If Employee's employment with the Company is terminated by the Company without Cause (actually and not constructively), by Employee for Good Reason, or due to Permanent Disability, and provided that Employee complies with all of the Severance Conditions (as defined below), the Company shall provide to Employee, in addition to the Accrued Payments, the following severance benefits ("Severance"):
 - i. continued payment of Employee's Base Salary for a period of twelve (12) months after the Termination Date (the "Severance Period"); provided, that the first such payment will be made on the first regularly-scheduled Company payroll date following the sixtieth (60th) day after the Termination Date (the "First Payment Date") and shall include all sums that would have been paid sooner had payments begun on the first payroll date after the Separation Date; and further provided, that, in the case of termination due to Permanent Disability, Base Salary payable to Employee shall be reduced dollar-for-dollar by the amount of disability benefits paid to Employee in accordance with any disability policy or program of the Company (the "Disability Offset");
 - ii. payment of a sum equal to the average Annual Incentive paid to Employee in the three years immediately preceding the Termination Date, pro-rated based upon the portion of the year during which Employee was employed prior to the Termination Date, which sum will be paid on the later of the First Payment Date or the date when other annual incentives are paid for the year in which the Termination Date occurred;

- iii. if Employee timely and properly elects health continuation coverage under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), the Company shall reimburse Employee for the monthly COBRA premium paid by Employee to continue coverage in effect as of the Termination Date under the Company’s medical, dental and vision insurance plans for the Severance Period; provided, that, if the Company determines in its reasonable judgment providing such continued coverage would violate applicable law or result in taxes or other penalties to the Company, the Company may, at its sole discretion, in lieu of providing such continued coverage, make taxable payments to Employee in an amount equal to the premiums Employee would be required to pay for such coverage (as determined by the Company in its reasonable judgment); and provided further, however, that no payment pursuant to this clause (ii) shall be owed or made before the First Payment Date; and
 - iv. full vesting acceleration of any equity awards that are subject only to service-based vesting conditions (for the avoidance of doubt, including the restricted stock units and stock options described in Sections 4.c.i and 4.c.ii hereof, but excluding the restricted stock units described in Sections 4.c.iii and 4.c.iv hereof) and that held by Employee as of the Termination Date.
- c. Conditions to Receipt of Severance. Notwithstanding any other provision of this Agreement, no Severance shall be owed or paid unless Employee complies with all of the following conditions (the “Severance Conditions”):
- i. Employee shall be in material compliance with all provisions of this Agreement;
 - ii. Employee shall execute and return to the Company a release in full of all claims against the Company and related persons, in the form attached as Exhibit B to this Agreement (subject to reasonable modification to ensure a full and effective release, as determined by the Company in its reasonable judgment), that becomes effective and irrevocable within sixty (60) days after the Termination Date;
 - iii. (A) Employee shall not malign or disparage the Company or its owners, directors, officers, managers, employees, agents, products or services, and (B) the Company shall not malign or disparage Employee on or after the Termination Date; provided, however, that nothing in this Agreement shall prohibit any person from (x) giving truthful testimony under oath in a judicial, administrative or arbitral proceeding, (y) making truthful statements to government officials in the performance of their duties, or (z) reporting violations of law to law enforcement officials.
- d. Mitigation. Employee will not be required to mitigate the amount of any payment contemplated by this Agreement. In addition, except for the Disability Offset and the requirement of eligibility in Section 11(b)(ii), no compensation or benefits that Employee may receive from any other source will reduce any such payment.

12. Section 280G. If any of the payments or benefits received or to be received by Employee (including, without limitation, any payment or benefits received in connection with a Change in Control or Employee's termination of employment, whether pursuant to the terms of this Agreement or any other plan, arrangement or agreement, or otherwise) (all such payments collectively referred to herein as the "280G Payments") constitute "parachute payments" within the meaning of Section 280G of the Code and would, but for this Section 12, be subject to the excise tax imposed under Section 4999 of the Code (the "Excise Tax"), then prior to making the 280G Payments, a calculation shall be made comparing (i) the Net Benefit (as defined below) to Employee of the 280G Payments after payment of the Excise Tax to (ii) the Net Benefit to Employee if the 280G Payments are limited to the extent necessary to avoid being subject to the Excise Tax. Only if the amount calculated under (i) above is less than the amount under (ii) above will the 280G Payments be reduced to the minimum extent necessary to ensure that no portion of the 280G Payments is subject to the Excise Tax. "Net Benefit" shall mean the present value of the 280G Payments net of all federal, state, local, foreign income, employment, and excise taxes. Any reduction made pursuant to this Section 12 shall be made in a manner determined by the Company that is consistent with the requirements of Section 409A. All calculations and determinations under this Section 12 shall be made by an independent accounting firm or independent tax counsel appointed by the Company (the "Tax Counsel") whose determinations shall be conclusive and binding on the Company and Employee for all purposes. For purposes of making the calculations and determinations required by this Section 12, the Tax Counsel may rely on reasonable, good faith assumptions and approximations concerning the application of Section 280G and Section 4999 of the Code. The Company and Employee shall furnish the Tax Counsel with such information and documents as the Tax Counsel may reasonably request in order to make its determinations under this Section 12. The Company shall bear all costs the Tax Counsel may reasonably incur in connection with its services.

13. Indemnification; D&O Coverage. The Company shall indemnify Employee, to the maximum extent permitted by law, during and after the termination of Employee's employment, against any and all judgments, settlement payments, costs, attorney fees, and other reasonable expenses incurred by Employee in connection with the defense of any claim, action, suit or proceeding, arising from events before or during the term of Employee's employment to which Employee has been made a party because of Employee's performance of his duties under this Agreement, or by way of inclusion, the execution of this Agreement; provided, however, that no indemnification shall be owed or provided to the extent arising from acts or omissions of Employee that were not taken or omitted to be taken in good faith and with a reasonable basis to believe that such act or omission was required by law or otherwise in the best interest of the Company. This right to indemnification shall be in addition to any rights that Employee may otherwise be entitled to under the Certificate of Incorporation or Bylaws of the Company as applicable. The Company shall provide directors and officers insurance coverage to Employee on the same basis that it provides such coverage to other Company executives.

14. Survival of Provisions. The provisions of this Agreement set forth in Sections 7, 8, 9, 10, 11, 13 and 20 hereof shall survive the termination of Employee's employment hereunder.

15. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the Company and its successors and assigns. This Agreement shall inure to the benefit of and be binding upon Employee and, and upon his death or incapacity, his heirs, executors, and legal representatives. The Company may assign this Agreement to any parent, subsidiary, affiliated entity or successor in interest. Employee may not assign this Agreement, and any attempted assignment by Employee shall be null and void, except that Employee's rights to compensation and benefits pursuant to this Agreement may transfer by will or the laws of descent and distribution in the event of Employee's death.

16. Notice. Any notice or communication required or permitted under this Agreement shall be made in writing and shall be deemed given (a) on the date of personal delivery, (b) on the date delivered by UPS, FedEx or other national or international delivery service to the address shown below, or (c) on the third (3rd) business day after it has been sent by certified or registered mail, return receipt requested, addressed as follows:

If to Employee:

Michael Coffey
7095 Round Road
Cumming, GA 30040

If to the Company:

Chairman of the Compensation Committee
Manitex International, Inc.
9725 S. Industrial Drive
Bridgeview, IL 60455

or to such other address as either party may from time to time duly specify by notice given to the other party in the manner specified above.

17. Entire Agreement; Amendments. This Agreement contains the entire agreement and understanding of the parties hereto relating to the subject matter hereof, and supersedes all prior and contemporaneous discussions, agreements and understandings of every nature between the parties hereto relating to the employment of Employee with the Company. This Agreement may not be changed or modified, except by an Agreement in writing signed by each of the parties hereto.

18. Waiver. The waiver of the breach of any term or provision of this Agreement shall not operate as or be construed to be a waiver of any other or subsequent breach of this Agreement.

19. Governing Law. This Agreement shall be construed and enforced in accordance with the laws of the State of Illinois without giving effect to the choice of law principles of any state.

20. Settlement of Disputes. Any claims, controversies, demands, disputes, or differences between the parties hereto arising out of, or by virtue of, or in connection with, or relating to this Agreement, Employee's employment relationship with the Company or termination of such employment relationship (including whether such termination was for Cause or Good Reason or otherwise) shall be submitted to and settled by arbitration in Chicago, Illinois before a single arbitrator who shall be knowledgeable in the field of business law and employment relations and such arbitration shall be in accordance with the employment arbitration rules of the American Arbitration Association ("AAA") then in force. The parties agree to bear joint and equal responsibility for all fees of AAA and the arbitrator, abide by any decision rendered as final and binding, and waive the right to submit the dispute to a public tribunal for a jury or non-jury trial. Notwithstanding the foregoing, either party may apply to any court of competent jurisdiction to compel arbitration pursuant to this Section 20 and grant temporary or preliminary injunctive relief to preserve the status quo and prevent irreparable harm pending arbitration.

21. Severability. In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect the validity of any other provision of this Agreement, and such provision(s) shall be deemed modified to the extent necessary to make it enforceable.

22. Section Headings. The section headings in this Agreement are for convenience only, and form no part of this Agreement and shall not affect its interpretation.

23. Specific Enforcement: Attorney Fees. Employee acknowledges that the restrictions contained in Sections 7, 8 and 9 hereof are reasonable and necessary to protect the legitimate interests of the Company and its affiliates and that the Company would not have entered into this Agreement in the absence of such restrictions. Employee also acknowledges that any breach by Employee of Sections 7, 8 and 9 hereof will cause continuing and irreparable injury to the Company for which monetary damages would not be an adequate remedy. Employee shall not, in any action or proceeding to enforce any of the provisions of this Agreement, assert the claim or defense that an adequate remedy at law exists. In the event of such breach by Employee, the Company shall have the right to enforce the provisions of Sections 7, 8 and 9 of this Agreement through securing injunctive or other relief without the necessity of posting a bond, and this Agreement shall not in any way limit remedies of law or in equity otherwise available to the Company. If an action at law or in equity is necessary to enforce or interpret the terms of this Agreement, the prevailing party shall be entitled to recover, in addition to any other relief, reasonable attorneys' fees, costs and disbursements.

24. Compliance with Section 409A. It is intended that all of the benefits and payments under this Agreement be exempt from application of Section 409A of the Code ("Section 409A"), including under Treas. Reg. 1.409A-1(b)(4), 1.409A-1(b)(5) and 1.409A-1(b)(9), and this Agreement will be construed to the greatest extent possible as consistent with those provisions. If not so exempt, this Agreement (and any definitions hereunder) will be construed in a manner that complies with Section 409A of the Code, and incorporates by reference all required definitions and payment terms. To the extent required to avoid an accelerated or additional tax under Section 409A, amounts reimbursable to Employee under this Agreement for expenses shall be paid to Employee on or before the last day of the year following the year in which the expense was incurred and the amount of expenses eligible for reimbursement during one year may not affect the amounts reimbursable in any subsequent year. To the extent that the timing of the Severance Conditions spans two (2) calendar years, in no event will payments or benefits that constitute "deferred compensation" within the meaning of Code Section 409A be paid prior to the first day of such second calendar year. Notwithstanding any other provision in this Agreement or in any other document, the Company shall not be responsible for the payment of any applicable taxes incurred by Employee pursuant to this Agreement, including with respect to compliance pursuant to Section 409A. The Company makes no representation that any or all of the payments and benefits described in this Agreement will be exempt from or comply with Section 409A.

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which together shall be deemed to be one and the same instrument.

[Signatures appear on following page]

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed the day and year first written above.

“EMPLOYEE”
MICHAEL COFFEY

/s/ Michael Coffey
Michael Coffey

4/11/2022
Date

“COMPANY”
MANITEX INTERNATIONAL, INC

By: /s/ David Langevin
David J. Langevin

Title: Chairman
Date: 4/11/2022

EXHIBIT A
PERFORMANCE CONDITIONS: RESTRICTED STOCK UNITS

<u>Stock Price (1)</u>	<u>RSUs Vested</u>
\$9.00	40,000
\$12.00	50,000
\$14.00	60,000
\$16.00	70,000
\$18.00	80,000
\$20.00	90,000
\$22.00	100,000
Total	<u>490,000</u>

(1) Highest 30-day moving day average during prior 360 days, calculated on a rolling basis.

EXHIBIT B
FORM OF RELEASE
GENERAL RELEASE

In exchange for the promises described in Section 11(b) of the Employment Agreement (the "Agreement") between myself and Manitex International, Inc.(the "Company"), I, for myself and my heirs, assigns and personal representatives, fully and completely release the Company and its parent, subsidiary and affiliated entities and all predecessors and successors thereto, and all benefit plans thereof, and all of their shareholders, members, partners, directors, officers, managers, employees, attorneys, administrators and agents (each a "Releasee" and collectively the "Releasees") from any and all claims or causes of action that I may have against the Releasees, known or unknown, including claims or causes of action that relate in any way to my employment with the Company or any other Releasee or the termination thereof, from the beginning of time through the date I sign this General Release ("Released Claims"), including but not limited to claims based on any of the following:

(a) federal, state or local laws prohibiting discrimination (including harassment and retaliation) in employment, such as: (i) the Age Discrimination in Employment Act ("ADEA"), the Older Workers Benefit Protection Act, and Executive Order 11141, which prohibit discrimination based on age; (ii) Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1866 (42 U.S.C. § 1981), the Equal Pay Act, and Executive Order 11246, which prohibit discrimination based on race, color, national origin, religion, or sex; (iii) the Genetic Information Nondiscrimination Act, which prohibits discrimination on the basis of genetic information; (iv) the Americans With Disabilities Act and Sections 503 and 504 of the Rehabilitation Act of 1973, which prohibit discrimination based on disability; (v) the National Labor Relations Act, which prohibits discrimination for engaging in certain concerted protected activity; (vi) the Occupational Safety and Health Act and the Mine Safety and Health Act, which prohibit discrimination for engaging in certain safety-related activity; (vii) the Sarbanes Oxley Act, which prohibits discrimination for engaging in certain whistleblowing activity; and (viii) the Illinois Human Rights Act (775 ILCS 5/1 et seq.), which prohibits discrimination on many of the bases described above;

(b) federal, state or local laws regarding wages and hours, including laws regarding minimum wage, overtime compensation, wage payment, vacation pay, sick pay, compensatory time, commissions, bonuses, and meal and break periods wages, such as the Fair Labor Standards Act and the Illinois Wage Payment and Collection Act (820 ILCS 115/1 et seq.);

(c) other employment laws, including but not limited to: (i) the Family and Medical Leave Act, which requires employers to provide leaves of absence under certain circumstances; (ii) the Worker Adjustment and Retraining Notification Act (WARN), which requires advance notice of certain workforce reductions; (iii) the Employee Retirement Income Security Act, which protects employee benefits (among other things); and (iv) the Uniformed Services Employment and Reemployment Rights Act, which requires employers to provide military leave under certain circumstances; or

(d) any common law theory, including but not limited to breach of contract (expressed or implied), promissory estoppel, wrongful discharge, outrageous conduct, defamation, fraud or misrepresentation, tortious interference, invasion of privacy, negligent hiring or supervision, or any other claims based in contract, tort or equity.

Notwithstanding the foregoing, I understand that the Released Claims do not include claims for breach of Section 11(b) of the Agreement, claims that arise after I sign this General Release, claims for vested pension benefits, claims for workers' compensation benefits or unemployment compensation benefits, and any other claims that cannot by law be released by private agreement. In addition, this General Release does not prevent me from filing (i) a lawsuit to challenge the effectiveness of my release of claims of age discrimination under the ADEA; or (ii) a charge with a governmental agency, including but not limited to the U.S. Equal Employment Opportunity Commission and the U.S. Securities and Exchange Commission ("SEC"), but I am waiving my right to recover any monetary or injunctive relief pursuant to any such charge (except that this General Release does not prevent me from recovering a bounty or similar award for providing information to the SEC).

I acknowledge and agree that I am releasing both known and unknown claims and waive the benefits of any statute purporting to prevent me from releasing unknown claims, including, but not limited to protection of Cal. Civ. Code Section 1542, which states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS THAT THE CREDITOR OR RELEASING PARTY DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR OR RELEASED PARTY.

By signing this General Release, I represent and warrant that:

- (a) I have no Released Claims pending against the Company or any other Releasee and have not assigned or transferred any Released Claim to anyone;
- (b) Except for the Severance defined in Section 11(b) of the Agreement, I have been timely paid all compensation owed for services rendered through the Separation Date, including all salary, wages, bonuses, commissions, overtime compensation (if applicable) and payment for all accrued but unused vacation, and have timely received all meal periods and rest breaks to which I may have been entitled;
- (c) I have been fully reimbursed for all business expenses incurred by me for which I was entitled to reimbursement;
- (d) I did not suffer any work-related injury or illness as an employee of the Company or any other Releasee, and I am not aware of any facts or circumstances that would give rise to a workers' compensation claim by me against the Company or any other Releasee; and
- (e) I did not suffer any sexual harassment or sexual abuse as an employee of the Company or any other Releasee, and I am not aware of any facts or circumstances that would give rise to such a claim by me against the Company or any other Releasee.

I acknowledge and agree that:

- (a) the consideration described in the Agreement is consideration to which I would not otherwise be entitled, but for my execution of this General Release;
- (b) I have been advised to consult with legal counsel about this General Release and have been given an opportunity to do so;
- (c) I have been given at least twenty-one (21) calendar days in which to consider this General Release before signing it, any changes to this General Release did not restart the 21-day consideration period, and if I have signed this General Release in less than 21 days, I have done so voluntarily;¹
- (d) I have not relied on any promises or representations of any kind, except those set forth in the Agreement; and
- (e) I have executed this General Release voluntarily, of my own free will, and without any threat, intimidation or coercion.

I understand that I may revoke this General Release by delivering written notice of revocation to the Company by U.S. Mail, delivery or email addressed as follows, which notice must be received not later than the seventh (7th) calendar day following my execution of this General Release, and this General Release shall not become effective until the seven-day revocation period has expired without revocation by me:

Manitex International, Inc.
9725 S. Industrial Drive
Bridgeview, Illinois 60455
Email: DJLangevin@ManitexInternational.com
ATT: David J. Langevin, Chair.

NOTE:
Sign and return within 21 days after last day of employment.
Do not sign until employment has ended.

Michael Coffey

Date: _____

¹ NTD: The Company may change 21 days to 45 days if deemed necessary or advisable by the Company in order to ensure compliance with the Older Workers Benefit Protection Act.



**Manitex International Acquires Rabern Rentals, Names Industry Veteran
Michael Coffey as CEO, and Upgrades Credit Facilities in Support of Growth
and Margin Expansion Strategy**

BRIDGEVIEW, IL., April 11, 2022 — Manitex International, Inc. (Nasdaq:MNTX), a leading international provider of cranes and specialized industrial equipment, today announced that it has completed the acquisition of 70% of Rabern Rentals, of Amarillo, Texas for \$25.9 million. The acquisition is being financed through a new U.S.-based \$85 million credit facility which enhances the company's ability to deploy its resources, globally. Rabern Rentals is a top regional provider of industrial equipment rentals with four locations throughout Texas and 2021 revenues of approximately \$21.5 million, EBITDA of \$8 million, and a fleet of more than 1,700 machines serving a multitude of end-markets, specializing in commercial construction. Rabern's Founder Steve Berner will continue to run this new rental segment and retains a 30% stake in the business.

Concurrently, the Company is announcing the appointment of Michael Coffey as Chief Executive Officer of Manitex International, Inc., effective April 11, 2022. Mr. Coffey joins the company with more than 25 years of experience, primarily in rentals and manufacturing and operations management in heavy equipment, from general construction to mining, and other specialized industry niches. Mr. Coffey has held senior level positions including Director, General Manager, Chief Executive Officer, and Chief Operating Officer, and has a proven track record as an operations leader integrating, consolidating and managing facilities and executing M&A transactions on four continents. The majority of his career has been with industry leaders that include H-E International, (sold to Hitachi Construction Machinery in 2016) a private equity backed enterprise, serving mining, oil & gas, and power generation markets, and at Old Castle Materials, a subsidiary of CRH International, and AMECO, a subsidiary of Fluor.

"The addition of Rabern provides an immediate and impactful boost to our margins, effectively doubling our annualized EBITDA run-rate based on 2021 results," commented Joe Doolan, the company's Chief Financial Officer. "Rabern's rental fleet of equipment is complimentary, to our own product lines but does not overlap Manitex's current products. It is a great fit for our overall objective of pursuing profitable and sustainable growth for Manitex. With a reported backlog of \$189 million as of December 31, 2021, bookings have continued to grow thus far in 2022 reaching over \$200 million as of March 31, 2022. We are looking for another year of continued growth across each of our businesses. Michael's experience on the business and operations side will be instrumental in helping us chart our path forward as a provider of equipment into the industrial marketplace that generates value for shareholders, capturing an appropriate share of margin and cash flows."

Michael Coffey, Manitex's new Chief Executive Officer, stated, "I am looking forward to working with the team at Manitex to support our commercial objectives to achieve higher levels of financial performance. The industrial equipment landscape has continued to evolve and a focus on production, costs, and operating efficiencies is critical to taking advantage of the market opportunities we see in front of us. The entire Manitex team wishes to thank Steve Filipov for his hard work that has put the company in a good position to move forward from here. Steve will continue to work with the Company in an advisory capacity."

The company also announced a new \$85 million credit facility with Amarillo National Bank. This new banking facility provided the funds for the Rabern acquisition and working capital facilities for both the Manitex and Rabern business. Following the closing of this transaction, Manitex has a working capital facility providing \$70 million in cash and borrowing capacity, further strengthening Manitex's financial position to support future growth. The company will have \$35-\$40 million in total liquidity upon close.

About Manitex International, Inc.

Manitex International, Inc. is a leading worldwide provider of highly engineered mobile cranes (truck mounted straight-mast and knuckle boom cranes, industrial cranes, rough terrain cranes, truck mounted aerial work platforms and specialized industrial equipment. Our products, which are manufactured in facilities located in the USA and Europe, are targeted to selected niche markets where their unique designs and engineering excellence fill the needs of our customers and provide a competitive advantage. We have consistently added to our portfolio of branded products and equipment both through internal development and focused acquisitions to diversify and expand our sales and profit base while remaining committed to our niche market strategy. Our brands include Manitex, PM, MAC, PM-Tadano, Oil & Steel, and Valla.

Forward-Looking Statements

Safe Harbor Statement under the U.S. Private Securities Litigation Reform Act of 1995: This release contains statements that are forward-looking in nature which express the beliefs and expectations of management including statements regarding the Company's expected results of operations or liquidity; statements concerning projections, predictions, expectations, estimates or forecasts as to our business, financial and operational results and future economic performance; and statements of management's goals and objectives and other similar expressions concerning matters that are not historical facts. In some cases, you can identify forward-looking statements by terminology such as "anticipate," "estimate," "plan," "project," "continuing," "ongoing," "expect," "we believe," "we intend," "may," "will," "should," "could," and similar expressions. Such statements are based on current plans, estimates and expectations and involve a number of known and unknown risks, uncertainties and other factors that could cause the Company's future results, performance or achievements to differ significantly from the results, performance or achievements expressed or implied by such forward-looking statements. These factors and additional information are discussed in the Company's filings with the Securities and Exchange Commission and statements in this release should be evaluated in light of these important factors. Although we believe that these statements are based upon reasonable assumptions, we cannot guarantee

future results. Forward-looking statements speak only as of the date on which they are made, and the Company undertakes no obligation to update publicly or revise any forward-looking statement, whether as a result of new information, future developments or otherwise.

Contact:

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